



\*Note – This meeting may be transmitted via Facebook Live on the City of Tonganoxie page

Honorable David Frese, Mayor

Council Members

Rocky Himpel

Jacob Dale

Lisa Patterson

Loralee Stevens

Chris Donnelly

**Open Regular Meeting – 7:00 p.m.**

**I. Pledge of Allegiance**

**II. Approval of Minutes** – Regular meeting dated February 3, 2020

**III. Consent Agenda**

- a) Review bill payments

**IV. Open Agenda**

Members of the public are welcome to use this time to comment about any matter relating to City business. The comments that are discussed under Open Agenda may or may not be acted upon by the Council during this meeting. In order to speak during open agenda, you must sign up with your name and address with the city clerk or designee **before the meeting**. Comments will be limited to 3 minutes. Please wait to be recognized by the Mayor and **state your name and address** for the record.

**V. Old Business**

- a) Resolution 02-20-02: Consider Approval or Modification of New Public Library Lease Agreement
- b) Request for Adjustment to Previous Streetlight Purchase Authorization
- c) Request for Authorization to Purchase 2017 Ford Explorer Interceptor in place of the Planned 2020 Dodge Charger for the Police Department

**VI. New Business**

- a) Consider Approval of Request to Donate Tonganoxie Water Park Family Season Pass to Genesis Christian Preschool and Academy
- b) Public Hearing – Considering the Vacation of Easements on Property Owned by HMC Performance Coatings, LLC and Tongie Road Ptrs., LLC
- c) Ordinance 1482: Approving the Vacation of Easements on Property Owned by HMC Performance Coatings, LLC and Tongie Road Ptrs., LLC
- d) Consider Special Event Permit and Draft Ordinance 1483 Authorizing Alcohol Consumption on Public Property for an Event at the New Tonganoxie Public Library
- e) Request for Authorization to Purchase F-450 Utility Vehicle, Utility Service Bed, and Snowplow for the Public Works Department
- f) Request for Authorization to Dispose of City Equipment on Purple Wave Public Auction Site
- g) Tonganoxie Public Library Board Appointments Discussion
- h) City Manager Agenda
  - 1. Urgent Needs Grant Update
  - 2. Library Project Update

- i) City Attorney Agenda
- j) Mayor Pro Tem Agenda
- k) City Council Agenda
- l) Mayor Agenda
  - 1. Executive Session for discussion of personnel matters of non-elected personnel

**VII. Information & Communications (No Action Required)**

**VIII. Adjourn**

City Council Meeting Minutes  
February 3, 2020  
7:00 PM Meeting

**Open Regular Meeting – 7:00 p.m.**

**I. Pledge of Allegiance**

- Mayor pro tem Himpel opened the meeting at 7:00 p.m.
- Mayor pro tem Himpel, Ms. Stevens, Mr. Donnelly, and Ms. Patterson were present. City Manager George Brajkovic and City Attorney Anna Krstulic were also in attendance.
- Mayor pro tem Himpel led the Pledge of Allegiance.

**II. Approval of Minutes – Regular meeting dated January 21, 2020**

- **Mr. Donnelly made a motion to approve the minutes from the January 21, 2020 City Council meeting.**
- **Ms. Patterson seconded the motion.**
- **Vote of all ayes, motion carried.**

**III. Consent Agenda**

- a) Review bill payments
- **Ms. Patterson made a motion to approve the consent agenda.**
- **Mr. Donnelly seconded the motion.**
- **Vote of all ayes, motion carried.**

**IV. Open Agenda**

Members of the public are welcome to use this time to comment about any matter relating to City business. The comments that are discussed under Open Agenda may or may not be acted upon by the Council during this meeting. In order to speak during open agenda, you must sign up with your name and address with the City Clerk or designee **before the meeting**. Comments will be limited to 3 minutes. Please wait to be recognized by the Mayor and **state your name and address** for the record.

- County Commissioner Mike Stieben addressed the City Council regarding his concerns with the County's planning efforts for the County Road 1 corridor, and possible discrepancies between the County's and the City's zoning designations and comprehensive plans.

**V. Old Business**

a) Consideration of Library Lease Term Sheet Suggested Adjustments

- Mr. Brajkovic introduced the item.
- Ms. Krstulic went through specific provisions of the Lease including insurance, repairs and maintenance, snow removal and landscaping, major capital improvements, casualty provisions, defaults, owner's remedies, and legal representation of both parties.
- Mr. Donnelly inquired about the bonds issued to finance this project and insurance replacement values. He also shared concerns regarding structural changes that effect load bearing walls.
- Mr. Brajkovic replied that the City's insurer will determine replacement value.
- Ms. Krstulic clarified that changes to structural walls are prohibited in the draft Lease.
- Ms. Patterson asked for details on the FF&E purchases and to include the specifics of these purchases within the Lease.
- Ms. Krstulic agreed to add a list of FF&E purchases as an exhibit to the lease.
- Ms. Patterson asked for clarification regarding insurance policies, claims and coverages, and owner/tenant responsibilities.

- Mr. Brajkovic replied that City staff are working with the City's insurer to confirm coverage, and he will send the Lease to the Library Board for review and comment on the proposed terms.

## VI. New Business

### a) Resolution 02-20-01 to call a Public Hearing to consider creating a Rural Housing Incentive District (RHID) Plan for West Village

- Mr. Brajkovic introduced the item and presented a summary of the staff report and previous actions related to the item. Marko Cvetkovic and Ross Vogel were present representing the development team.
- Mr. Brajkovic stated that statutory requirements include adopting a resolution to set a public hearing date no more than 30 days, and no less than 70 days in advance to consider adopting the RHID Plan.
- **Ms. Stevens made a motion to adopt Resolution 02-20-01 setting a public hearing on March 16, 2020 to consider the RHID Plan for West Village.**
- **Ms. Patterson seconded the motion.**
- **Vote of all ayes, motion carried.**

### b) Consideration of Library Board appointments

- Mr. Brajkovic asked for a continuation of this item to collect additional information from the Library Board about the current composition of the Library Board, including appointments and terms.

### c) Presentation by the Tonganoxie Police Department re: purchase of Patrol Vehicle

- Police Chief Greg Lawson made a presentation which detailed unforeseen circumstances which resulted in fewer 2020 Dodge Challengers being manufactured than originally expected, and thus a nationwide shortage of vehicles available for purchase. The presentation included options for a Dodge Charger located in the State of Georgia, consideration of an alternative Dodge vehicle in the Durango, consideration of a 2017 Ford Explorer Interceptor which was a demonstration vehicle for 911 Customs, consideration of used vehicles from KHP, or simply waiting to see if Dodge can manufacture additional vehicles.
- Mr. Donnelly asked for clarification on purchasing an extended warranty for the 2017 Ford Explorer Interceptor, and stringent maintenance requirements associated with the warranty.
- Chief Lawson replied that the Public Works Department ensures regular maintenance.
- Ms. Stevens asked about the documentation done by in-house Public Works staff when completing repairs.
- Mr. Brajkovic replied that the Public Works Department documents all repairs and maintenance.
- Mr. Donnelly asked about the mileage on the 2017 Ford Explorer Interceptor and how it relates to typical mileage of a patrol vehicle.
- Chief Lawson replied that the 2017 Ford Explorer has never been used as a patrol vehicle and the mileage consists primarily of highway miles.
- Mr. Brajkovic provided additional information about budget authority associated with this modified purchase request.
- Ms. Patterson asked for clarity on the extra options that 911 Customs installed on the 2017 Ford Interceptor.
- Chief Lawson replied that the extra options include equipment that the Police Department does not use.
- **Mr. Donnelly made a motion to authorize a commitment letter to purchase the 2017 Ford Interceptor, with the general Fund allocation staying the same as was established for the 2020 Dodge Charger purchase, and the balance of funds coming from the Police Equipment Fund. Staff will bring back a formal request to purchase at the next City Council meeting.**
- **Ms. Patterson seconded the motion.**
- **Vote of all ayes, motion carried.**

- d) Communication from Paul Kramer, Leavenworth, KS City Manager, regarding proposed edits to the draft Leavenworth County Port Authority (LCPA) Agreement.
- Mr. Brajkovic introduced the item and explained that the City of Leavenworth is seeking to add language to the draft LCPA Agreement which contemplates dissolution of assets if the LCPA ceases to exist as an entity. These changes have no impact on the proposal to have City representation on the LCPA Board.
- Mr. Donnelly asked for clarification on existing property that may have been under LCPA ownership, and how it may relate to the City's ownership of property at the Tonganoxie Business Park.
- Mr. Brajkovic replied that the City owns the property at the Tonganoxie Business Park.
- Mr. Stieben clarified that the proposed change would allow Leavenworth County and the City of Leavenworth jointly to consider the dissolution of assets.
  
- e) City Manager Agenda
  - 1. Urgent Needs Grant Update
- Mr. Brajkovic shared an update on the status of the aerial sanitary sewer creek crossing repair project, including the February 10<sup>th</sup> start date.
- 2. Library Project Update
- Mr. Brajkovic provided an update on the current status of the Tonganoxie Public Library construction project and proposed scheduling a tour of the new facility before the February 18<sup>th</sup> City Council meeting.
  
- f) City Attorney Agenda
  
- g) Mayor Pro Tem Agenda
- Mr. Himpel shared that the County Planning Commission is considering the Table of Uses associated with the County's Comprehensive Plan.
  
- h) City Council Agenda
  
- i) Mayor Agenda
  - 1. Executive Session for Discussion of Personnel Matters of Non-Elected Personnel
    - The Mayor was not able to attend the meeting, so this item was not addressed.

**VII. Information & Communications (No Action Required)**

**VIII. Adjourn**

- **Ms. Patterson made a motion to adjourn the meeting.**
- **Mr. Donnelly seconded the motion.**
- **Vote of all ayes, motion carried.**
- **Meeting adjourned at 8:20 p.m.**

Respectfully submitted,

George Brajkovic, City Manager



City of Tonganoxie, KS

Date Range: 01/28/2020 - 02/12/2020

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
0630	TONGANOXIE LIBRARY BOARD	02/11/2020	Regular	0	198654.56	47244
0913	AMINO BROTHERS CO. INC.	02/07/2020	Regular	0	47233.89	47210
0189	FIRST STATE BANK & TRUST	01/31/2020	Regular	0	38134.36	47194
0250	HONEYCREEK DISPOSAL SERVICE	02/07/2020	Regular	0	29145.92	47220
0491	OLATHE WINWATER WORKS	02/07/2020	Regular	0	5756	47231
1068	Stinson LLP	01/31/2020	Regular	0	5494.1	47201
0157	EDWARDS CHEMICALS	01/31/2020	Regular	0	3443.8	47193
0579	SECURITY BENEFIT - 457	02/07/2020	Regular	0	3359.08	47237
0610	SUMMIT TRUCK	02/07/2020	Regular	0	2857.51	47238
0136	DELTA DENTAL PLAN OF KANSAS,IN	02/07/2020	Regular	0	2449.8	47214
1082	1st Due Emergency Response Solutions, LLC	02/07/2020	Regular	0	2268	47207
0651	USA BLUE BOOK	02/07/2020	Regular	0	2004.95	47240
1082	1st Due Emergency Response Solutions, LLC	02/07/2020	Regular	0	1839.25	47206
0651	USA BLUE BOOK	01/31/2020	Regular	0	1799.97	47204
0491	OLATHE WINWATER WORKS	01/31/2020	Regular	0	1380	47197
0189	FIRST STATE BANK & TRUST	02/07/2020	Regular	0	1219.85	47216
0642	USPS	02/07/2020	Regular	0	1103.5	47241
0641	TYLER TECHNOLOGIES	01/31/2020	Regular	0	960	47202
0500	OREILLY AUTO PARTS	02/07/2020	Regular	0	795.17	47232
0248	HOLLIDAY SAND & GRAVEL COMPANY	02/07/2020	Regular	0	762.01	47218
0614	T-MOBILE	02/07/2020	Regular	0	503.54	47239
0330	KANSAS GAS SERVICE	02/07/2020	Regular	0	482.65	47223
0503	PACE ANALYTICAL SERVICES INC	02/07/2020	Regular	0	475	47233
0661	VISION SERVICE PLAN	02/07/2020	Regular	0	427.57	47242
1016	1866 Bar & Grill	01/31/2020	Regular	0	368	47191
0542	QUILL	02/07/2020	Regular	0	363.69	47234
0284	JAYS UNIFORMS	02/07/2020	Regular	0	316.91	47222
0645	UNITED RENTALS, (NORTH AMERICA	01/31/2020	Regular	0	300.41	47203
0001	911 CUSTOM	02/07/2020	Regular	0	300	47208
0757	KC CLEAN	02/07/2020	Regular	0	300	47226
0932	RED WING SHOES	02/07/2020	Regular	0	296.98	47235
0857	MIDCONTINENT COMMUNICATIONS	02/07/2020	Regular	0	269.15	47229
0684	WIRENUTS	01/31/2020	Regular	0	215	47205
0249	HONEYBEE SEPTIC SERVICE	02/07/2020	Regular	0	215	47219
0410	LIBERTY NATIONAL	02/07/2020	Regular	0	206.42	47228
0404	LEAVENWORTH TIMES	02/07/2020	Regular	0	204.5	47227
1021	Katherine Kelly	02/07/2020	Regular	0	200	47225
0907	IACP	02/07/2020	Regular	0	190	47221
0542	QUILL	01/31/2020	Regular	0	180.05	47199
0526	PRAXAIR DISTRIBUTION, INC.	01/31/2020	Regular	0	170.95	47198
0020	AMERICAN EQUIPMENT CO.	02/07/2020	Regular	0	165.68	47209
0205	GALL'S LLC	02/07/2020	Regular	0	159.98	47217
0579	SECURITY BENEFIT - 457	02/11/2020	Regular	0	150	47243
0932	RED WING SHOES	01/31/2020	Regular	0	148.49	47200
0749	BROADVOICE	02/07/2020	Regular	0	145.63	47213
0476	NATIONAL SIGN COMPANY INC.	02/07/2020	Regular	0	135.6	47230
0243	HIMPEL LUMBER & BUILDING SUPPL	01/31/2020	Regular	0	88.36	47195
1007	LEAVENWORTH PAPER & OFFICE SUPPLY LLC	01/31/2020	Regular	0	80	47196
0034	AT&T ACCESS TRANSPORT SERVICES	02/07/2020	Regular	0	74.49	47212
0496	KANSAS ONE CALL CONCEPTS	02/07/2020	Regular	0	69.6	47224
0185	FERRELLGAS	02/07/2020	Regular	0	65	47215
0022	ANDERSON RENTALS INC	02/07/2020	Regular	0	36	47211
0096	CITY ATTORNEYS ASSOC OF KANSAS	01/31/2020	Regular	0	35	47192
0555	RICOH USA, INC.	02/07/2020	Regular	0	29.96	47236

Date Range: 01/28/2020 - 02/12/2020

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
0932	RED WING SHOES	02/07/2020	Regular	0	-296.98	47235
0651	USA BLUE BOOK	01/31/2020	Regular	0	-1799.97	47204

**Bank Code AP Bank Summary**

Payment Type	Payable	Payment	Discount	Payment
	Count	Count		
Regular Checks	72	54	0.00	358,031.33
Manual Checks	0	0	0.00	0.00
Voided Checks	0	2	0.00	-2,096.95
Bank Drafts	0	0	0.00	0.00
EFT's	0	0	0.00	0.00
	<b>72</b>	<b>56</b>	<b>0.00</b>	<b>355,934.38</b>

## All Bank Codes Check Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	72	54	0.00	358,031.33
Manual Checks	0	0	0.00	0.00
Voided Checks	0	2	0.00	-2,096.95
Bank Drafts	0	0	0.00	0.00
EFT's	0	0	0.00	0.00
	<b>72</b>	<b>56</b>	<b>0.00</b>	<b>355,934.38</b>

## Fund Summary

Fund	Name	Period	Amount
998	Gen Fund-Pooled Cash	1/2020	50998.52
998	Gen Fund-Pooled Cash	2/2020	304935.86
			<b>355934.38</b>

**RESOLUTION NO. 02-20-02**

**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF THE LEASE BETWEEN THE CITY OF TONGANOXIE, KANSAS AND THE TONGANOXIE PUBLIC LIBRARY.**

**WHEREAS**, the City of Tonganoxie, Kansas (the "City") previously issued General Obligation Sales Tax Bonds in the amount of \$3,660,000 (the "Bonds") for the purchase of certain real property and construction thereon of certain buildings and improvements for a new public library (collectively, the "Premises");

**WHEREAS**, the Tonganoxie Public Library (the "Library") desires to lease the Premises from the City;

**WHEREAS**, the Governing Body has determined that it is advisable to enter into the Lease, attached hereto as **Exhibit A** (the "Lease"), with the Library to provide for the parties' respective obligations pertaining to the Premises.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS:**

**Section 1.** That the Governing Body hereby approves the Lease in substantially the form attached hereto.

**Section 2.** That the Mayor is hereby authorized to execute in the name of the City, the Lease, and the City Manager is hereby authorized to execute any other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 3.** This Resolution shall be effective upon adoption by the Governing Body.

**ADOPTED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE,  
KANSAS, AND APPROVED BY THE MAYOR ON THIS 18<sup>th</sup> DAY OF  
FEBRUARY 2020.**

**SEAL**

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David Frese, Mayor

ATTEST:

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Patricia C. Hagg, City Clerk

**EXHIBIT A**

**Lease**

[To be attached.]

## LEASE

THIS LEASE, made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2020, by and between the CITY OF TONGANOXIE, KANSAS, a municipal corporation organized under the laws of the State of Kansas ("**Landlord**"), and the TONGANOXIE PUBLIC LIBRARY, a public library organized under the laws of the State of Kansas ("**Tenant**");

### RECITALS:

A. Landlord previously issued General Obligation Sales Tax Bonds in the amount of \$3,660,000 (the "**Bonds**") for the purchase of certain real property described on Exhibit A attached hereto and incorporated herein located at 217 E. 4<sup>th</sup> Street, Tonganoxie, Kansas (the "**Land**") and construction on the Land of certain buildings and improvements for a new public library (the "**Improvements**") (the Land and Improvements together are hereinafter referred to as the "**Leased Premises**").

B. Landlord purchased the Land and completed the Improvements and desires to enter into this Lease with Tenant in consideration for the covenants and agreements of Tenant set forth herein.

C. Tenant desires to make and enter into this Lease and make the covenants and agreements on its part set forth herein in consideration for the covenants and agreements of Landlord set forth herein.

NOW, THEREFORE, in consideration of the Leased Premises and the covenants and agreements herein set forth, it is agreed as follows:

### ARTICLE I GRANT OF LEASE – TERM

1.01 Granting of Leasehold. Landlord, by these presents hereby rents and leases to Tenant and Tenant hereby rents and leases from Landlord the Leased Premises, subject to the terms and conditions hereinafter set forth, and subject to the covenants, easements, restrictions, reservations and declarations of record.

1.02 Term. The term (the "**Initial Term**") of this Lease shall commence upon the date that the Improvements are ready for Tenant's occupancy (currently estimated to be March 1, 2020) (the "**Commencement Date**"), and shall expire on date which is the later of (i) twenty (20) years from the Commencement Date, or (ii) the date upon which the Bonds are paid in full and such payment is confirmed by Landlord in writing to Tenant.

1.03 Option to Extend. Provided Tenant is not in default under this Lease beyond any applicable cure periods, Tenant is hereby granted one (1) option to extend the Initial Term of this Lease for ten (10) years (the "**Option Period**"). Except as otherwise provided herein, Tenant's occupancy of the Leased Premises during the Option Period shall be on the same terms and conditions as applicable during the Initial Term of the Lease. If the Option Period is exercised, the Option Period shall commence immediately on the expiration of the Initial Term. Tenant may exercise the Option Period by giving written notice thereof to Landlord at least three (3) months prior to the expiration of the Initial Term. If Tenant exercises the Option Period and then subsequently defaults under the terms of this Lease prior to the expiration of the Initial Term, Landlord may nullify Tenant's exercise of the Option Period and this Lease shall terminate upon the expiration of the Initial Term.

1.04 Term. References herein to the "**Term**" shall be deemed as meaning the Initial Term and the Option Period.

## **ARTICLE II RENT**

2.01 Rent. Tenant shall not pay any rent under this Lease.

## **ARTICLE III USE AND OCCUPANCY**

3.01 Use of Leased Premises. Subject to the provisions of this Article III, Tenant shall have the right to use the Leased Premises only and exclusively for the operation of a public library and no other purpose without the prior written approval of Landlord.

3.02 Compliance with Laws. From and after the Commencement Date, Tenant shall comply with, and make all alterations, changes or repairs to the Leased Premises required by, and will at all times use the Leased Premises in conformance with, all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Leased Premises or to any public ways adjoining the Leased Premises.

3.03 Furniture, Fixtures and Equipment. As of the Commencement Date, Landlord has used the Bonds to acquire and pay for up to One Hundred Ten Thousand Dollars (\$110,000) of certain furniture, fixtures and equipment identified on Exhibit B attached hereto (the "**Landlord FFE**") for Tenant's use in the Leased Premises. Tenant shall pay the costs of any furniture, fixtures and equipment in excess of the Landlord FFE pursuant to that certain Memorandum of Understanding dated August 6, 2018 by and between Landlord and Tenant, as amended by that certain First Amendment to Memorandum of Understanding dated October 1, 2018.

## **ARTICLE IV IMPOSITIONS**

4.01 Impositions. Landlord and Tenant contemplate that the Land and Improvements that constitute the Leased Premises shall be exempt from real property taxation because the same are owned by Landlord as a public entity. However, in the event of an adverse tax ruling or other failure to obtain the real property tax exemption, Tenant agrees to bear, pay and discharge, before the delinquency thereof, all taxes and assessments, general and special, if any, which may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Leased Premises or any part thereof, or Tenant's interest in the Leased Premises under this Lease, with respect to any period during the Term of this Lease including any new lawful taxes and assessments not of the kind enumerated above to the extent that the same are made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all water and sewer charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would encumber Landlord's or Tenant's title to the Leased Premises (all of the foregoing being herein referred to as "**Impositions**"). In the event any special assessment taxes are lawfully levied and assessed which may be paid in installments, Tenant shall be required to pay only such installments thereof as become due and payable during the Term of this Lease as and when the same become due and payable. Landlord shall, promptly upon receipt of any and all government statements, charges and bills relating to the Impositions referred to in this Section 4.01, deliver such statements, charges and bills to Tenant.

4.02 Receipted Statements. Within thirty (30) days after the last day for payment, without penalty or interest, of an Imposition which Tenant is required to bear, pay and discharge pursuant to Section 4.01, Tenant shall deliver to Landlord a copy of the statement duly receipted to show the payment thereof, or a copy of the payment by Tenant, which copy shall be certified as authentic by an appropriate office of Tenant.

4.03 Contest of Impositions. Tenant shall have the right to contest the validity or amount of any Imposition which Tenant is required to bear, pay and discharge pursuant to the terms of this Article IV by appropriate legal proceedings instituted at least ten (10) days before the Imposition complained of becomes delinquent, provided that Tenant, before instituting any such contest, gives Landlord written notice of its intention so to do and, if requested by Landlord, deposits with Landlord a bond in favor of Landlord (with the surety acceptable to Landlord in its sole discretion) in a sum equal to at least 125% of the amount of the Imposition so contested. Tenant will diligently prosecute any such contest, at all times effectively stay or prevent any official or judicial sale therefor, under execution or otherwise, and promptly pay any final judgment enforcing the Imposition so contested, and thereafter promptly procure record release or satisfaction thereof. Tenant shall hold Landlord whole and harmless from any costs and expenses Landlord may incur related to any such contest.

4.04 Tax Implications. Tenant acknowledges and represents that (i) neither Landlord nor any of its officials, employees, consultants, attorneys or other agents has provided to Tenant any advice regarding the federal or state income tax implications or consequences of this Lease and the transactions contemplated hereby; and (ii) Tenant is relying solely upon its own tax advisors in this regard.

## **ARTICLE V INSURANCE**

5.01 Property and Casualty Insurance. During the Term of the Lease, Landlord shall keep the Leased Premises and all parts thereof constantly insured in an amount equal to the full replacement value thereof in such insurance company or companies authorized to do business in the State of Kansas as may be approved by Landlord in Landlord's sole discretion. The term "full replacement value" means the full actual replacement cost and such "full replacement value" shall be determined from time to time by Landlord but not more frequently than once every twenty-four (24) months by an appraiser or appraisal company or the insurer, to be selected and paid by Tenant, subject to Landlord's reasonable approval. Tenant shall reimburse Landlord for the cost of the premiums for the insurance policy, and any deductibles paid by Landlord for any claims of loss or damage related to the Leased Premises, within five (5) business days of Landlord's delivery to Tenant of written demand for same. The proceeds of such policies shall be used and applied in the manner set forth in Article XIV hereof.

5.02 Public Liability Insurance. Tenant covenants and agrees to maintain at all times during the Term of this Lease comprehensive general public liability insurance (including coverage for all losses whatsoever arising from the ownership, maintenance, operation or use of any automobile, truck or other motor vehicle) in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate annually, or such greater amounts as may be required from time to time by Landlord. Such public liability insurance shall include: (i) insured contract coverage encompassing Tenant's defense and indemnity obligations arising from bodily injury and property damage; (ii) "additional insured" coverage to Landlord on a primary and noncontributory basis with respect to Landlord's own coverage and (notwithstanding the general limits of insurance described above and elsewhere) provide limits to Landlord of no more (and no less) than \$500,000 per occurrence; and (iv) contain a "severability of interests" or "separation of insureds" feature. The form of such policies shall be subject to Landlord's reasonable approval. The insurance policies shall contain a provision that such insurance shall not terminate (whether by lapse, cancellation or otherwise) or be amended in any manner without at least

thirty (30) days advance written notice to Landlord and Tenant. Such policies or copies or certificates thereof shall be furnished to Landlord. Tenant shall have the right to maintain the insurance herein required by means of a blanket policy provided such policy satisfies all of the requirements of this Section 5.02.

5.03 Worker's Compensation. Tenant covenants and agrees to maintain at all times during the Term of this Lease workers' compensation insurance with liability limits required by the laws of the State of Kansas at employer's liability coverage.

5.04 Waiver of Subrogation. As part of the consideration for this Lease, each party hereto hereby waives any and all rights of recovery against the other on account of losses (including those attributable to negligence) insured against under any fire and extended coverage insurance policy in force at the time of such loss or damage, or insured against under any other insurance policy maintained by either party hereto at the time of such loss or damage. The parties hereto shall use reasonable efforts to obtain an endorsement to each casualty insurance policy providing that the foregoing waiver shall not adversely affect the coverage afforded by such policy.

## **ARTICLE VI ASSIGNMENT AND SUBLEASE**

6.01 Assignment and Sublease. Tenant will not (a) assign, mortgage, pledge, sell, or in any other manner transfer, convey or dispose of this Lease or any interest therein or part thereof, whether voluntary, involuntary or by operation of law; or (b) sublet or sublicense all or any part of the Leased Premises, without obtaining in each case the prior written consent thereto by Landlord, which consent may be given or denied in Landlord's sole discretion. No assignment, mortgage, pledge, sale, other transfer, conveyance or disposition, sublicense or sublease shall release or discharge Tenant from its duties and obligations under this Lease. Any consent by Landlord shall be held to apply only to the specific transaction thereby authorized; such consent shall not be construed as a waiver or release of the duty of Tenant, or the successors or assigns of Tenant, to obtain from Landlord consent to any other such acts.

## **ARTICLE VII REPAIRS AND MAINTENANCE**

7.01 Repairs and Maintenance. Tenant agrees that it will during the Term of this Lease keep and maintain the Leased Premises and all parts thereof and all machinery or equipment on or about the Leased Premises operational and in a good and first-class condition and repair, ordinary wear and tear excepted, making such repairs and replacements as may be necessary or appropriate from time to time. Tenant will keep the Leased Premises and all parts thereof free from filth, nuisance or conditions unreasonably increasing the danger of fire. Tenant will maintain all parking areas of the Leased Premises in good condition, including providing for snow removal, and will contract with a landscaping service for regular mowing of any grassy or landscaped areas of the Leased Premises. Tenant shall contract with a reputable service provider for regular, routine maintenance to all HVAC systems on the Leased Premises. Landlord shall not be responsible for any repairs, maintenance or replacements needed with respect to the Leased Premises except as provided in Section 7.03 below.

7.02 Removal of Machinery and Equipment. Except as may be required in the ordinary and usual maintenance and operation of the Leased Premises, Tenant shall not have the right, without Landlord's prior written consent, to remove from the Leased Premises and sell or otherwise dispose of any machinery and equipment which constitutes a part of the Leased Premises or which is in, on or about the Leased Premises without replacing such machinery and equipment with substitute machinery and

equipment capable of performing the same function as the machinery and equipment removed with equal efficacy. If Landlord consents to any such removal, Tenant shall pay all the costs and expenses of any and all such removal and shall immediately repair at its expense all damage to the Leased Premises caused thereby. Any and all machinery and equipment of whatever nature placed on or about the Leased Premises pursuant to the provisions of this Article VII shall be and become part of the Leased Premises, and Tenant shall not have the right, upon any termination of this Lease, by lapse of time or otherwise, to remove any of such machinery and equipment. Tenant's rights to remove or replace any machinery or equipment is and shall be subject to the other terms and provisions of this Lease.

7.03 Landlord Maintenance Obligations. During the Term of this Lease, Landlord shall be responsible, at Landlord's cost and expense, for any capital improvements that may be needed to the Leased Premises and any structural replacements to the Improvements. Landlord shall replace the HVAC systems as may be necessary in Landlord's reasonable discretion; provided, however, that if Tenant does not contract for routine maintenance to the HVAC systems as required in Section 7.01 above, Tenant will be responsible, at Tenant's sole cost and expense, for any needed HVAC systems replacements.

## **ARTICLE VIII ALTERATIONS**

8.01 Alteration of the Leased Premises or Improvements. Tenant shall have the right, without Landlord's prior written consent, to make additions, changes or alterations in and to the interior of the Leased Premises, provided the cost of such additions, changes or alterations does not exceed Ten Thousand Dollars (\$10,000). Tenant shall not have the right to make (a) any additions, changes or alterations to the interior of the Leased Premises that are estimated to exceed Ten Thousand Dollars (\$10,000); (b) any additions, changes, or alterations to the exterior of the Leased Premises; or (c) structural changes to the Leased Premises without Landlord's prior written consent, which consent may be given or denied in Landlord's sole discretion. All additions, changes or alterations made by Tenant pursuant to Landlord's consent shall: (i) be made in a workmanlike manner and in strict compliance with all applicable statutes, laws, ordinances, rules, regulations and requirements and the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of this Lease, (ii) shall not adversely affect the structural integrity of the Leased Premises; (iii) shall not adversely affect the efficacy of the Leased Premises; (iv) shall not adversely affect the value of the Leased Premises; (v) when commenced, be prosecuted to completion with due diligence; and (vi) when completed, shall be deemed a part of the Leased Premises and the sole property of Landlord; provided, however, that notwithstanding the foregoing, Landlord shall have the right, at its option, to require Tenant, upon the termination or sooner expiration of this Lease, to remove from the Leased Premises any alterations or additions made by or at the request of Tenant, and if Landlord so requires, Tenant shall remove such alterations or additions, shall repair any damage caused by such removal, and shall deliver the Leased Premises to Landlord in the same condition as the Leased Premises were in upon the commencement of the term hereof, subject to ordinary wear and tear.

8.02 Permits. Tenant shall not do or permit others under its control to do any work in or about the Leased Premises, or related to any repair, rebuilding, restoration, replacement, alteration of or addition to the Leased Premises, or any part thereof, unless Tenant shall have first procured and paid for all requisite municipal and other governmental permits and authorizations.

8.03 Signage. Tenant shall have the right to install signage on the Leased Premises as Tenant may deem necessary or desirable at Tenant's sole cost and expense; provided, however, that Tenant must submit signage drawings to Landlord prior to the construction of such signage for Landlord's consent, which consent may be given or denied at Landlord's sole discretion, and any construction of exterior signage on the Leased Premises must comply with the requirements stated in Section 8.01(i)-(vi) above.

Any signage consented to by Landlord must conform with all applicable laws and requirements and Tenant must provide Landlord with documentation that such signage does comply prior to Tenant commencing construction of the signage.

## ARTICLE IX TENANT COVENANTS

9.01 Compliance With Laws. Tenant shall comply with all laws pertaining to equal employment opportunity, social security, Hazardous Substances (as defined in Section 9.04 below), unemployment compensation, workers' compensation, tax, safety, building codes, and any other applicable statutes, ordinances, orders and other public requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Leased Premises or Tenant's permitted use of the Leased Premises. Tenant shall promptly comply with all governmental and other orders, requirements and directives imposed by the Board of Health, Sanitary and Police Departments for the correction, prevention, and abatement of nuisances in or upon, or connected with the Leased Premises, at Tenant's sole cost and expense.

9.02 Indemnity. Tenant hereby indemnifies and holds Landlord harmless from and against any and all liability, loss, claims, demands, damages or expenses (including reasonable attorneys' fees and litigation expenses) due to or arising out of any accident or occurrence on or about the Leased Premises (including, without limitation, accidents or occurrences resulting in injury, death, property damage or theft) or any willful or negligent act or omission of or breach of this Lease by Tenant, its subtenants or licensees, or any of their respective agents, employees or invitees. Tenant's obligations under this Section 9.02 will survive the expiration or early termination of this Lease.

9.03 As Is. TENANT HEREBY ACCEPTS THE LEASED PREMISES "AS IS, WHERE IS" AND ACKNOWLEDGES AND WARRANTS THAT LANDLORD HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTEES OF ANY KIND OR CHARACTER WHATSOEVER CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE LEASED PREMISES; (B) THE SUITABILITY OF THE LEASED PREMISES FOR ANY AND ALL ACTIVITIES AND USES WHICH TENANT MAY CONDUCT THEREON; (C) THE COMPLIANCE OF THE LEASED PREMISES WITH ANY APPLICABLE LAWS AND REQUIREMENTS; (D) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE LEASED PREMISES; (E) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS INCORPORATED INTO THE LEASED PREMISES; (F) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE LEASED PREMISES; OR (G) ANY OTHER MATTER WITH RESPECT TO THE LEASED PREMISES.

9.04 Hazardous Substances. Tenant covenants and agrees not to generate, store, handle or dispose of any Hazardous Substance in or upon the Leased Premises during the term of the Lease. "**Hazardous Substances**" means substances, chemicals or materials declared to be, or regulated as, hazardous or toxic under any applicable municipal, state, or federal laws, and shall have the meaning given to such term in such applicable law. Tenant shall indemnify and hold Landlord and its officers, shareholders, partners, employees, and agents, harmless from any loss, claim, liability or expense including, without limitation, attorneys' fees, court costs, consultant fees, expert fees, penalties, fines, removal, clean-up, transportation, disposal, restoration expenses, diminution in value of the Leased Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Leased Premises, damages arising from any adverse impact on marketing of the Leased Premises arising in connection with Tenant's failure to comply with the provisions of this Section 9.04. A breach of the

provisions of this Section 9.04 shall be a material default enabling Landlord to exercise any of the remedies set forth in this Lease. Tenant's obligation hereunder shall survive the expiration or earlier termination of this Lease.

## **ARTICLE X MECHANICS' LIENS**

10.01 Mechanics' Liens. Tenant shall not cause or permit any mechanics' or other liens to be created or to exist against the Leased Premises or Tenant's leasehold interest in the Leased Premises. Tenant shall have the right to contest by proper proceedings any such liens or claims thereof, provided that Tenant shall prosecute such contest diligently and in good faith. In the event that any such lien or claim thereof exists beyond sixty (60) days after first being claimed, Tenant shall take all actions as are necessary to cause the claim of lien to be released from the Leased Premises, including bonding-off the claim as necessary during the pendency of such contest. If such liens are so claimed and Tenant does not properly contest such liens, Landlord, at its election (but under no obligation), and upon not less than ten (10) days prior written notice to Tenant, may pay and satisfy same and, in such event the sums so paid by Landlord, with interest thereon at the lesser of the highest lawful rate or the rate of eighteen percent (18%) per annum from the date of payment, and all actual and other expenses, including reasonable attorneys' fees, so paid by Landlord, and all such amounts shall be due and payable by Tenant within five (5) business days of Landlord's delivery to Tenant of written demand for same. Notice is hereby given that Landlord does not authorize or consent to and shall not be liable for any labor or materials furnished to Tenant or anyone claiming by, through or under Tenant upon credit, and that no mechanics, or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of Landlord in and to the Leased Premises or any part thereof.

## **ARTICLE XI UTILITIES**

11.01 Utilities. Tenant shall pay, as applicable, any and all costs and expenses, service charges and all initial utility deposits and fees, for electricity, janitorial, gas, telephone, pest control and any other service or utility on or serving the Leased Premises ("**Tenant Utilities**"). Landlord shall pay, as applicable, any and all costs and expenses for water, sewage, and trash removal serving the Leased Premises. Landlord shall cooperate with Tenant to cause any provider who charges for Tenant Utilities to bill Tenant directly for all such Tenant Utilities. If Tenant is not billed directly for any Tenant Utilities, Landlord shall provide Tenant with a copy of any invoice for Tenant Utilities for which Tenant is responsible hereunder prior to or contemporaneous with any demand for payment of same.

## **ARTICLE XII LANDLORD'S ACCESS**

12.01 Access to Premises. Landlord, for itself and its duly authorized representatives and agents, reserves the right to enter the Leased Premises on twenty-four (24) hours' notice to Tenant (except in situations reasonably deemed by Landlord to constitute emergencies) during the Term of this Lease for the purpose of (a) examining and inspecting the same; (b) performing such work in and about the Leased Premises made necessary by reason of Tenant's default under any of the provisions of this Lease; (c) showing the Leased Premises to any prospective purchaser or mortgagee of the Leased Premises; (d) during the last year of the Term, to exhibit the Leased Premises to prospective tenants; and (e) for such other purposes as Landlord may reasonably determine to be necessary or appropriate. Landlord may, during the progress of the work mentioned in (b) above, keep and store on the Leased Premises all necessary materials, supplies and equipment, and Landlord shall not be liable for any inconvenience, annoyances, disturbance, loss of business or other damage suffered by reason of the performance of any

such work or by the storage of materials, supplies and equipment or by Landlord's exercise of any of its rights under this Lease. In exercising its rights hereunder, Landlord shall use reasonable efforts to avoid unreasonable interference with the operation of the Leased Premises.

### **ARTICLE XIII EMINENT DOMAIN**

13.01 Eminent Domain to All or Substantially All of the Leased Premises. If during the Term of this Lease title to all or a substantial part of the Leased Premises be condemned by any authority having the power of eminent domain, or transferred in lieu thereof, this Lease shall terminate on the date that possession of the Leased Premises condemned or transferred in lieu thereof is required to be surrendered to the condemning authority. All awards or payments received from the condemnation (or transfer in lieu thereof) of title of all or a substantial part of the Leased Premises (whether made entirely to Tenant or Landlord or partially to Landlord and partially to Tenant) shall, when received, become the absolute property of Landlord, and Tenant hereby assigns and transfer to Landlord any and all such awards and payments and agrees that it shall not have any interest therein.

13.02 Eminent Domain as to Less Than a Substantial Part of the Leased Premises. If during the Term of this Lease title to less than a substantial part of the Leased Premises be condemned (or transferred in lieu thereof) by any authority having the power of eminent domain, this Lease shall not be terminated with respect to the Leased Premises and neither the Term nor any of the obligations of either party under this Lease shall be reduced or affected in any way. All awards or payments received from such condemnation of title to less than a substantial part of the Leased Premises or transfer in lieu thereof shall, when received, become the absolute property of Landlord, and Tenant hereby assigns and transfers to Landlord any and all such awards or payments and agrees that, except as herein set forth, it shall not have any interest therein. Landlord may, in Landlord's sole discretion, repair or rebuild the Leased Premises to as nearly as possible the same condition as prior to the taking at Landlord's cost and expense.

### **ARTICLE XIV DAMAGE OR DESTRUCTION BY CASUALTY**

14.01 Damage or Destruction by Fire or Other Casualty. If at any time during the Term of this Lease any part of the Leased Premises is damaged or destroyed by fire or other casualty, this Lease shall not, except as otherwise provided in Section 14.02 below, be terminated and neither the Term nor any of the obligations of either party under this Lease shall be reduced or affected in any way. Landlord shall proceed with due diligence to repair or rebuild the damaged or destroyed Leased Premises to as nearly as possible the same condition as it was in immediately prior to such damage or destruction. All proceeds of insurance shall become the absolute property of Landlord, and Tenant hereby assigns and transfers to Landlord any and all such proceeds and agrees that it shall not have any interest therein.

14.02 Cancellation Right. Notwithstanding the provisions of Section 14.01 above, in the event that the Leased Premises are damaged or destroyed by fire or other casualty, Landlord will, promptly after learning of such damage, notify Tenant in writing of the time necessary to repair or restore all of such damage, as estimated by Landlord's architect, engineer or contractor. If such estimate states that repair or restoration cannot be completed within 180 days from the date of casualty (or within sixty (60) days from the date of casualty if the casualty occurred within the last twelve (12) months of the Term), or if insurance proceeds are not available or sufficient to repair or restore all of the damage to the Leased Premises, then Landlord shall have the right, by written notice to Tenant within ninety (90) days after the date of such casualty, to terminate this Lease as of that date which is thirty (30) days after the date of such notice.

**ARTICLE XV**  
**DEFAULT**

15.01 Events of Default. Each of the following acts or omissions of Tenant constitute an "**Event of Default**" under this Lease:

(a) Tenant breaches or fails to comply with any other provision of this Lease applicable to Tenant, and such breach or noncompliance continues for a period of twenty (20) days after notice by Landlord to Tenant; or, if such breach or noncompliance cannot be reasonably cured within such twenty (20) day period, Tenant does not in good faith commence to cure such breach or noncompliance within such twenty (20) day period or does not diligently complete such cure within sixty (60) days after such notice from Landlord. However, if such breach or noncompliance causes or results in (i) a dangerous condition on the Leased Premises, or (ii) any insurance coverage carried by Landlord or Tenant with respect to the Leased Premises being jeopardized, then an Event of Default will exist if such breach or noncompliance is not cured as soon as reasonably possible after notice by Landlord to Tenant, and in any event is not cured within thirty (30) days after such notice.

(b) Tenant abandons or vacates the Leased Premises.

(c) Tenant's interest under this Lease or in the Leased Premises is transferred or passes to, or devolves upon, any other party in violation of Article VI of this Lease.

(d) Tenant's interest under this Lease or in the Leased Premises is taken upon execution or by other process of law directed against Tenant, or is subject to any attachment by any creditor or claimant against Tenant and such attachment is not discharged or disposed of within fifteen (15) days after levy.

(e) Tenant files a petition in bankruptcy or insolvency, or for reorganization or arrangement under any bankruptcy or insolvency laws, or voluntarily takes advantage of any such laws by answer or otherwise, or dissolves or makes an assignment for the benefit of creditors, or involuntary proceedings under any such laws or for the dissolution of Tenant are instituted against Tenant, or a receiver or trustee is appointed for the Leased Premises or for all or substantially all of Tenant's property, and such proceedings are not dismissed or such receivership or trusteeship vacated within sixty (60) days after such institution or appointment.

15.02 Landlord's Remedies. Whenever any Event of Default shall occur and be continuing, Landlord, may, at its option and without limiting Landlord's right to exercise any other legal right or remedy, in addition to all other contractual, legal or equitable rights and remedies, do any one or more of the following:

(a) Terminate this Lease, in which event Tenant shall immediately surrender possession of the Leased Premises to Landlord.

(b) Continue this Lease and sue for Tenant's performance hereunder (including payment of any amounts due hereunder).

(c) Enter upon and take possession of the Leased Premises without terminating this Lease and without relieving Tenant of its obligations pursuant to this Lease, and expel or remove Tenant and any other person who may be occupying the Leased Premises or any part thereof and any personal property or trade fixtures located therein, and change or alter the locks and other security devices, and relet the Leased Premises in the name of Landlord, at any rental readily obtainable, in which event

Landlord shall keep all rent received. In such event, Tenant shall pay to Landlord on demand the expenses of such reletting.

(d) The above-stated remedies of Landlord shall be deemed to be in addition to, and not in lieu of, any other rights and remedies provided Landlord either at law or in equity. No delay in enforcing the provisions of this Lease shall be deemed to constitute a waiver of a default by Landlord, and the pursuit by Landlord of one or more remedies shall not be deemed to constitute an election against other remedies. No receipt of money by Landlord after the expiration or earlier termination of this Lease shall reinstate, or continue the Term of the Lease.

15.03 Performance of Tenant's Obligations by Landlord. If Tenant shall fail to keep or perform any of its obligations as provided in this Lease, then Landlord may (but shall not be obligated so to do) upon the continuance of such failure on Tenant's part for ten (10) days after notice of such failure is given Tenant by Landlord (except that such notice need not be given in any case reasonably deemed by Landlord to constitute an emergency), and without waiving or releasing Tenant from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all sums so paid by Landlord and all necessary incidental costs and expenses incurred by Landlord in performing such obligation shall be paid to Landlord on demand, and if not so paid by Tenant, Landlord shall have the same rights and remedies provided for in this Article XV in the case of an Event of Default by Tenant.

15.04 Default Interest. Any sums due from either party to the other pursuant to this Lease shall, from and after the due date thereof, bear interest at the per annum rate of five percent (5%) in excess of the Prime Rate. The term "**Prime Rate**" shall be that interest rate equal to the prime rate as announced from time to time by Security Bank of Kansas City or any successor to it. The rate of interest applicable herein shall fluctuate concurrently with fluctuations in the Prime Rate, and if the rate herein provided for shall ever exceed the highest rate provided by law, the rate shall be considered as automatically reduced to such highest rate.

15.05 Costs to Enforce. Tenant covenants to pay and to indemnify Landlord against all reasonable costs and charges, including counsel fees, lawfully and reasonably incurred in the successful enforcement of any agreement by Tenant contained in this Lease.

## **ARTICLE XVI SURRENDER AND OWNERSHIP**

16.01 Surrender of Possession. Upon the expiration or earlier termination of this Lease, Tenant covenants to surrender possession of the Leased Premises to Landlord in as good condition as the Premises was delivered to Tenant at the commencement of the Term, reasonable wear and tear excepted. At or prior to the expiration of the Term, or for thirty (30) days after the sooner termination thereof, Tenant shall have the right to remove all fixtures, signs and equipment installed by or caused to be installed by Tenant, provided that such items can be removed without damage caused to the Leased Premises. If removal will cause damage, Tenant shall not remove such item without the prior written consent of Landlord, which consent will be given or denied at Landlord's sole discretion. Any damage caused by such removed will be at Tenant's sole cost and expense. All personal property, equipment, and fixtures remaining in the Leased Premises after Tenant's surrender of the Leased Premises shall be considered abandoned by Tenant and Landlord may dispose of it in any manner Landlord wishes. Tenant will reimburse Landlord on demand for all costs incurred for disposal together with all costs for repairs required because of removal of all or any such abandoned personal property, equipment, and fixtures.

**ARTICLE XVII  
NOTICE**

17.01 Notices. All notices required or desired to be given hereunder shall be in writing and all such notices and other written documents required or desired to be given hereunder shall be deemed duly served and delivered for all purposes if (i) delivered by nationally recognized overnight delivery service; (ii) delivered by electronic mail (with follow up within two (2) business days by United States Mail or by nationally recognized overnight delivery service); or (iii) delivered in person, in each case if addressed to the parties set forth below:

Landlord:

George Brajkovic  
City Manager  
City of Tonganoxie, Kansas  
526 East 4<sup>th</sup> Street  
Tonganoxie, Kansas 66086  
Telephone: (913) 845-2620  
Email: gbrajkovic@tonganoxie.org

Dan Porter  
Assistant City Manager  
City of Tonganoxie, Kansas  
526 East 4<sup>th</sup> Street  
Tonganoxie, Kansas 66086  
Telephone: (913) 845-2620  
Email: dporter@tonganoxie.org

With a Copy To:

Anna Krstulic  
City Attorney  
Stinson LLP  
1201 Walnut Street, Suite 2900  
Kansas City, Missouri 64106  
Telephone: (816) 842-8600  
Email: anna.krstulic@stinson.com

Tenant:

With a Copy To:

or to such other address as Tenant and Landlord may designate from time to time. All notices given by: (i) nationally recognized overnight delivery service, or (ii) electronic mail, and followed up by regular United States mail or nationally recognized overnight delivery service in accordance with the above procedures, shall be deemed duly given one (1) business day after they are so delivered. All notices given in person shall be deemed duly given when delivered.

**ARTICLE XVIII  
MISCELLANEOUS**

18.01 Rights and Remedies. The rights and remedies reserved by Landlord and Tenant hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. Landlord and Tenant shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

18.02 Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

18.03 Force Majeure. In the event either party hereto shall be delayed or hindered in or prevented from the performance of any act required under this Lease by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental law or regulations, court or other judicial order, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

18.04 Quiet Enjoyment and Possession. Landlord covenants that so long as Tenant shall not be in default under this Lease, Tenant shall and may peaceably and quietly have, hold and enjoy the Leased Premises leased hereunder during the Term of this Lease.

18.05 Representations of Tenant. Tenant represents and covenants that it is a public library duly formed by the State of Kansas, with lawful power and authority to enter into this Lease, acting by and through its duly authorized officers. Tenant further covenants that the execution of this Lease and the performance of the terms of this Lease by Tenant will not result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease, or other agreement or instrument to which Tenant is a party, or by which it or any of its property is bound, or any law, order, rule or regulation applicable to Tenant or its property of any court or other governmental body.

18.06 Amendments. This Lease may be amended, changed or modified only by a written agreement duly executed by Landlord and Tenant.

18.07 Construction and Enforcement. This Lease shall be construed and enforced in accordance with the laws of the State of Kansas. Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation. The terms "Landlord" and/or "Tenant" and all pronouns used herein referring to "Landlord" and/or "Tenant" shall include the singular and plural, and masculine, feminine and neuter gender, as the context and circumstances require, and if there be two or more included in the term, the provisions hereof shall apply to each, jointly and severally.

18.08 Power of Landlord; Compliance of Tenant. Notwithstanding anything to the contrary herein, nothing herein shall in any way diminish or usurp the inherent rights and powers of the Landlord to act in its capacity as a public body or political subdivision. Nothing herein shall relieve Tenant from complying with all applicable laws and requirements.

18.09 Legal Representation of the Parties. This Lease was negotiated by the parties hereto with the benefit of legal representation, and any rules of construction or interpretation otherwise requiring this Lease to be construed or interpreted against any party shall not apply to the construction or interpretation of this Lease.

18.10 Invalidity of Provisions of Lease. If for any reason any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

18.11 Covenants Run With The Leased Premises. The covenants, agreements and conditions herein contained shall run with the Leased Premises and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

18.12 Headings. The Article and Section headings shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

18.13 Execution of Counterparts. This Lease may be executed simultaneously in two (2) or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

18.14 Estoppel Certificate by Tenant. Tenant will execute, acknowledge and deliver to Landlord, within ten (10) days after Landlord's written request therefor, a written statement certified by an appropriate officer of Tenant to the effect that (a) this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect, as modified, and stating the modifications); and (b) no notice has been received by Tenant and Tenant is not otherwise aware of any default which has not been cured, except as to defaults specified in said certificate. Such certificate shall also contain such additional information, statements and agreements as Landlord shall reasonably request. Any such certificate may be relied upon by any prospective purchaser or mortgagee of the Leased Premises or any part thereof.

18.15 No Liability on Landlord. Neither Landlord nor any of its officials, employees, consultants, attorneys or other agents, shall be liable for any damage to property of Tenant or any third party or of others entrusted to employees of Landlord or its agents, nor for the loss of or damages to any property of Tenant by theft or otherwise, whether or not due to the negligence of Landlord or any of its officials, employees, consultants, attorneys or other agents, unless such loss or damage is the result of Landlord's gross negligence or intentional misconduct. Neither Landlord nor any of its officials, employees, consultants, attorneys or other agents shall be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or snow or leaks from any part of the Leased Premises or from the pipes, appliances or plumbing works or from the roof, street or sub-surface or from any other place or by dampness or by any other cause of whatsoever nature, whether or not due to the negligence of Landlord or its officials, employees, consultants, attorneys or other agents; nor shall Landlord or any of its officials, employees, consultants, attorneys or other agents be liable for any such damage caused by other tenants or persons in the Leased Premises or caused by operations in connection with or resulting from any private, public or quasi-public work and Tenant hereby covenants and agrees to indemnify and hold harmless Landlord against any claims, costs, demands, losses or liabilities with respect to any of the matters referred to in this Section 18.15.

18.16 Limitation of Landlord's Liability. Notwithstanding anything contained in this Lease to the contrary, Tenant agrees that Tenant shall look solely to the estate of Landlord in the Leased Premises for the collection of any judgment or other judicial process requiring the payment of money by Landlord in the event of any default or breach by Landlord with respect to any of the terms and provisions of this Lease to be observed or performed by Landlord; subject, however, to the prior rights of the holder of any Landlord's Mortgage, and no other assets of Landlord shall be subject to levy, execution or other judicial process for the satisfaction of Tenant's claim, and Landlord shall not be liable for any such default or breach except to the extent of Landlord's estate in the Leased Premises.

18.17 Landlord's Mortgagees.

(a) Landlord may, at any time and from time to time, grant mortgages, deeds of trust or other liens or encumbrances (herein "**Landlord's Mortgage**") on any of the Leased Premises, and any holder thereof is referred to in this Lease as "**Landlord's Mortgagee**."

(b) This Lease shall be subject and subordinate to any Landlord's Mortgage and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, replacements, modifications, consolidations and extension thereof, provided the Landlord's Mortgagee shall agree to recognize the lease of Tenant in the event of foreclosure if Tenant is not then in default; any Landlord's Mortgage may elect to have this Lease a prior lien to its mortgage or deed of trust, and in the event of such election and upon notification by such Landlord's Mortgagee to Tenant to that effect, this Lease shall be deemed prior to the lien to the said Landlord's Mortgage, whether this Lease is dated prior to or subsequent to the date of said Landlord's Mortgage; Tenant shall execute and deliver whatever instruments may be required to acknowledge such subordination in recordable form, and in the event Tenant fails so to do within ten (10) days after demand in writing, Tenant does hereby make, constitute and irrevocably appoint Landlord's Mortgage as its attorney in fact and in its name, place and stead so to do.

18.18 No Partnership. Landlord does not in any way or for any purpose become a partner of Tenant in the conduct of its business or otherwise, nor a joint venturer or a member of a joint enterprise with Tenant.

18.19 No Holding Over. Tenant shall not remain in possession of the Leased Premises after the expiration or termination of this Lease without the written consent of Landlord, which may be withheld, conditioned, or delayed, for any reason or for no reason, by Landlord, and any such possession absent such consent shall be as a trespasser.

18.20 Survival of Obligations. All obligations of Tenant which by their nature involve performance, in any particular, after the end of the Term of this Lease, or which cannot be ascertained to have been fully performed until after the end of the Term of this Lease, shall survive the expiration or earlier termination of the Term of this Lease.

*[Remainder of page intentionally left blank; signature pages follow.]*

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed as of the date first above written.

[SEAL]

**LANDLORD:**

THE CITY OF TONGANOXIE, KANSAS

By: \_\_\_\_\_  
David Frese, Mayor

ATTEST:

\_\_\_\_\_  
Patricia C. Hagg, City Clerk

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed as of the date first above written.

**TENANT:**

THE TONGANOXIE PUBLIC LIBRARY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE LAND**

**EXHIBIT B**

**LANDLORD FFE**

<b>Section A: FF&amp;E Items</b>	<b>Amount</b>
AV Systems and Equipment, Cameras, and Low Voltage Equipment	\$ 68,405
Security -Per Keying Meeting adding locks to Community Room Doors	\$ 1,730
Appliances for Breakroom, Community Room and Coffee Bar	\$ 4,822
Additional casework for Storage Rooms, Work Room and Data Room	\$ 9,026
<b>Section A Total: FF&amp;E Grand Total</b>	<b>\$ 83,983</b>
Original FF&E Budget	\$ 110,000
Remaining FF&E Budget after Section A Total Deducted	\$ 26,017
<b>Section B: Items FF&amp;E Savings Covered:</b>	
Exterior Screenwall Material Change	\$8,207.00
Custom Carpet Upgrade	\$973.00
Interior Logo Signage	\$3,350.00
Community Room Operable Partition storage soffits	\$816.00
Quartz Countertop for Community Room & Coffee Bar	\$6,549.40
Sheving Staining	\$ 6,122
<b>Section B Total:</b>	<b>\$ 26,017</b>
<b>Grand Total Spent:</b>	<b>\$ 110,000</b>

## LEASE

THIS LEASE, made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2020, by and between the CITY OF TONGANOXIE, KANSAS, a municipal corporation organized under the laws of the State of Kansas ("**Landlord**"), and the TONGANOXIE PUBLIC LIBRARY, a public library organized under the laws of the State of Kansas ("**Tenant**");

### **RECITALS:**

A. Landlord previously issued General Obligation Sales Tax Bonds in the amount of \$3,660,000 (the "**Bonds**") for the purchase of certain real property described on **Exhibit A** attached hereto and incorporated herein located at 217 E. 4<sup>th</sup> Street, Tonganoxie, Kansas (the "**Land**") and construction on the Land of certain buildings and improvements for a new public library (the "**Improvements**") (the Land and Improvements together are hereinafter referred to as the "**Leased Premises**").

B. Landlord purchased the Land and completed the Improvements and desires to enter into this Lease with Tenant in consideration for the covenants and agreements of Tenant set forth herein.

C. Tenant desires to make and enter into this Lease and make the covenants and agreements on its part set forth herein in consideration for the covenants and agreements of Landlord set forth herein.

NOW, THEREFORE, in consideration of the Leased Premises and the covenants and agreements herein set forth, it is agreed as follows:

### **ARTICLE I GRANT OF LEASE – TERM**

1.01 Granting of Leasehold. Landlord, by these presents hereby rents and leases to Tenant and Tenant hereby rents and leases from Landlord the Leased Premises, subject to the terms and conditions hereinafter set forth, and subject to the covenants, easements, restrictions, reservations and declarations of record.

1.02 Term. The term (the "**Initial Term**") of this Lease shall commence upon the date that the Improvements are ready for Tenant's occupancy (currently estimated to be March 1, 2020) (the "**Commencement Date**"), and shall expire on date which is the later of (i) twenty (20) years from the Commencement Date, or (ii) the date upon which the Bonds are paid in full and such payment is confirmed by Landlord in writing to Tenant.

1.03 Option to Extend. Provided Tenant is not in default under this Lease beyond any applicable cure periods, Tenant is hereby granted one (1) option to extend the Initial Term of this Lease for ten (10) years (the "**Option Period**"). Except as otherwise provided herein, Tenant's occupancy of the Leased Premises during the Option Period shall be on the same terms and conditions as applicable during the Initial Term of the Lease. If the Option Period is exercised, the Option Period shall commence immediately on the expiration of the Initial Term. Tenant may exercise the Option Period by giving written notice thereof to Landlord at least three (3) months prior to the expiration of the Initial Term. If Tenant exercises the Option Period and then subsequently defaults under the terms of this Lease prior to the expiration of the Initial Term, Landlord may nullify Tenant's exercise of the Option Period and this Lease shall terminate upon the expiration of the Initial Term.

1.04 Term. References herein to the "**Term**" shall be deemed as meaning the Initial Term and the Option Period.

## ARTICLE II RENT

2.01 Rent. Tenant shall not pay any rent under this Lease.

## ARTICLE III USE AND OCCUPANCY

3.01 Use of Leased Premises. Subject to the provisions of this Article III, Tenant shall have the right to use the Leased Premises only and exclusively for the operation of a public library and no other purpose without the prior written approval of Landlord.

3.02 Compliance with Laws. From and after the Commencement Date, Tenant shall comply with, and make all alterations, changes or repairs to the Leased Premises required by, and will at all times use the Leased Premises in conformance with, all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Leased Premises or to any public ways adjoining the Leased Premises.

3.03 Furniture, Fixtures and Equipment. As of the Commencement Date, Landlord has used the Bonds to acquire and pay for up to One Hundred Ten Thousand Dollars (\$110,000) of certain furniture, fixtures and equipment identified on Exhibit B attached hereto (the "Landlord FFE") for Tenant's use in the Leased Premises. Tenant shall pay ~~any~~the costs of any furniture, fixtures and equipment in excess of ~~that amount~~the Landlord FFE pursuant to that certain Memorandum of Understanding dated August 6, 2018 by and between Landlord and Tenant, as amended by that certain First Amendment to Memorandum of Understanding dated October 1, 2018.

## ARTICLE IV IMPOSITIONS

4.01 Impositions. Landlord and Tenant contemplate that the Land and Improvements that constitute the Leased Premises shall be exempt from real property taxation because the same are owned by Landlord as a public entity. However, in the event of an adverse tax ruling or other failure to obtain the real property tax exemption, Tenant agrees to bear, pay and discharge, before the delinquency thereof, all taxes and assessments, general and special, if any, which may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Leased Premises or any part thereof, or Tenant's interest in the Leased Premises under this Lease, with respect to any period during the Term of this Lease including any new lawful taxes and assessments not of the kind enumerated above to the extent that the same are made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all water and sewer charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would encumber Landlord's or Tenant's title to the Leased Premises (all of the foregoing being herein referred to as "**Impositions**"). In the event any special assessment taxes are lawfully levied and assessed which may be paid in installments, Tenant shall be required to pay only such installments thereof as become due and payable during the Term of this Lease as and when the same become due and payable. Landlord shall, promptly upon receipt of any and all government statements,

charges and bills relating to the Impositions referred to in this Section 4.01, deliver such statements, charges and bills to Tenant.

4.02 Receipted Statements. Within thirty (30) days after the last day for payment, without penalty or interest, of an Imposition which Tenant is required to bear, pay and discharge pursuant to Section 4.01, Tenant shall deliver to Landlord a copy of the statement duly received to show the payment thereof, or a copy of the payment by Tenant, which copy shall be certified as authentic by an appropriate office of Tenant.

4.03 Contest of Impositions. Tenant shall have the right, ~~in its or Landlord's name,~~ to contest the validity or amount of any Imposition which Tenant is required to bear, pay and discharge pursuant to the terms of this Article IV by appropriate legal proceedings instituted at least ten (10) days before the Imposition complained of becomes delinquent, provided that Tenant, before instituting any such contest, gives Landlord written notice of its intention so to do and, if requested by Landlord, deposits with Landlord a bond in favor of Landlord (with the surety acceptable to Landlord in its sole discretion) in a sum equal to at least 125% of the amount of the Imposition so contested. Tenant will diligently prosecute any such contest, at all times effectively ~~stays or prevents~~ stay or prevent any official or judicial sale therefor, under execution or otherwise, and promptly pay any final judgment enforcing the Imposition so contested, and thereafter promptly procure record release or satisfaction thereof. Tenant shall hold Landlord whole and harmless from any costs and expenses Landlord may incur related to any such contest.

4.04 Tax Implications. Tenant acknowledges and represents that (i) neither Landlord nor any of its officials, employees, consultants, attorneys or other agents has provided to Tenant any advice regarding the federal or state income tax implications or consequences of this Lease and the transactions contemplated hereby; and (ii) Tenant is relying solely upon its own tax advisors in this regard.

## **ARTICLE V INSURANCE**

5.01 Property and Casualty Insurance. During the Term of the Lease, Landlord shall keep the Leased Premises and all parts thereof constantly insured in an amount equal to the full replacement value thereof in such insurance company or companies authorized to do business in the State of Kansas as may be approved by Landlord in Landlord's sole discretion. The term "full replacement value," ~~as used herein, shall mean~~ means the full actual replacement cost and such "full replacement value" shall be determined from time to time by Landlord but not more frequently than once every twenty-four (24) months by an appraiser or appraisal company or the insurer, to be selected and paid by Tenant, subject to Landlord's reasonable approval. Tenant shall reimburse Landlord for the cost of the premiums for the insurance policy, and any deductibles paid by Landlord for any claims of loss or damage related to the Leased Premises, within five (5) business days of Landlord's delivery to Tenant of written demand for same. The proceeds of such policies shall be used and applied in the manner set forth in Article XIV hereof.

5.02 Public Liability Insurance. Tenant covenants and agrees to maintain at all times during the Term of this Lease comprehensive general public liability insurance (including coverage for all losses whatsoever arising from the ownership, maintenance, operation or use of any automobile, truck or other motor vehicle), ~~under which Tenant and Landlord shall be named as insureds, properly protecting and indemnifying Landlord~~ in an amount not less than ~~[\$ ] combined single limit coverage~~ 1,000,000 per occurrence and \$2,000,000 aggregate annually, or such greater amounts as may be required from time to time by Landlord. Such public liability insurance shall include ~~a contractual liability endorsement and the:~~ (i) insured contract coverage encompassing Tenant's defense and indemnity obligations arising from bodily injury and property damage; (ii) "additional insured" coverage to Landlord

on a primary and noncontributory basis with respect to Landlord's own coverage and (notwithstanding the general limits of insurance described above and elsewhere) provide limits to Landlord of no more (and no less) than \$500,000 per occurrence; and (iv) contain a "severability of interests" or "separation of insureds" feature. The form of such policies shall be subject to Landlord's reasonable approval. The insurance policies shall contain a provision that such insurance shall not terminate (whether by lapse, cancellation or otherwise) or be amended in any manner without at least thirty (30) days advance written notice to Landlord and Tenant. Such policies or copies or certificates thereof shall be furnished to Landlord. Tenant shall have the right to maintain the insurance herein required by means of a blanket policy provided such policy satisfies all of the requirements of this Section 5.02.

5.03 Worker's Compensation. Tenant covenants and agrees to maintain at all times during the Term of this Lease workers' compensation insurance with liability limits required by the laws of the State of Kansas at employer's liability coverage.

5.04 Waiver of Subrogation. As part of the consideration for this Lease, each party hereto hereby waives any and all rights of recovery against the other on account of losses (including those attributable to negligence) insured against under any fire and extended coverage insurance policy in force at the time of such loss or damage, or insured against under any other insurance policy maintained by either party hereto at the time of such loss or damage. The parties hereto shall use reasonable efforts to obtain an endorsement to each casualty insurance policy providing that the foregoing waiver shall not adversely affect the coverage afforded by such policy.

## **ARTICLE VI ASSIGNMENT AND SUBLEASE**

6.01 Assignment and Sublease. Tenant will not (a) assign, mortgage, pledge, sell, or in any other manner transfer, convey or dispose of this Lease or any interest therein or part thereof, whether voluntary, involuntary or by operation of law; or (b) sublet or sublicense all or any part of the Leased Premises, without obtaining in each case the prior written consent thereto by Landlord, which consent may be given or denied in Landlord's sole discretion. No assignment, mortgage, pledge, sale, other transfer, conveyance or disposition, sublicense or sublease shall release or discharge Tenant from its duties and obligations under this Lease. Any consent by Landlord shall be held to apply only to the specific transaction thereby authorized; such consent shall not be construed as a waiver or release of the duty of Tenant, or the successors or assigns of Tenant, to obtain from Landlord consent to any other such acts.

## **ARTICLE VII REPAIRS AND MAINTENANCE**

7.01 Repairs and Maintenance. Tenant agrees that it will during the Term of this Lease keep and maintain the Leased Premises and all parts thereof and all machinery or equipment on or about the Leased Premises operational and in a good and first-class condition and repair, ordinary wear and tear excepted, making such repairs and replacements as may be necessary or appropriate from time to time. Tenant will keep the Leased Premises and all parts thereof free from filth, nuisance or conditions unreasonably increasing the danger of fire. Tenant will maintain all parking areas of the Leased Premises in good condition, including providing for snow removal, and will contract with a landscaping service for regular mowing of any grassy or landscaped areas of the Leased Premises. Tenant shall contract with a reputable service provider for regular, routine maintenance to all HVAC systems on the Leased Premises. Landlord shall not be responsible for any repairs, maintenance or replacements needed with respect to the Leased Premises except as provided in Section 7.03 below.

7.02 Removal of Machinery and Equipment. Except as may be required in the ordinary and usual maintenance and operation of the Leased Premises, Tenant shall not have the right, without Landlord's prior written consent, to remove from the Leased Premises and sell or otherwise dispose of any machinery and equipment which constitutes a part of the Leased Premises or which is in, on or about the Leased Premises without replacing such machinery and equipment with substitute machinery and equipment capable of performing the same function as the machinery and equipment removed with equal efficacy. If Landlord consents to any such removal, Tenant shall pay all the costs and expenses of any and all such removal and shall immediately repair at its expense all damage to the Leased Premises caused thereby. Any and all machinery and equipment of whatever nature placed on or about the Leased Premises pursuant to the provisions of this Article VII shall be and become part of the Leased Premises, and Tenant shall not have the right, upon any termination of this Lease, by lapse of time or otherwise, to remove any of such machinery and equipment. Tenant's rights to remove or replace any machinery or equipment is and shall be subject to the other terms and provisions of this Lease.

7.03 Landlord Maintenance Obligations. During the Term of this Lease, Landlord shall be responsible, at Landlord's cost and expense, for any capital improvements that may be needed to the Leased Premises and any structural replacements to the Improvements. Landlord shall replace the HVAC systems as may be necessary in Landlord's reasonable discretion; provided, however, that if Tenant does not contract for routine maintenance to the HVAC systems as required in Section 7.01 above, Tenant will be responsible, at Tenant's sole cost and expense, for any needed HVAC systems replacements.

## **ARTICLE VIII ALTERATIONS**

8.01 Alteration of the Leased Premises or Improvements. Tenant shall have the right, without Landlord's prior written consent, to make additions, changes or alterations in and to the interior of the Leased Premises, provided the cost of such additions, changes or alterations does not exceed Ten Thousand Dollars (\$10,000). Tenant shall not have the right to make (a) any additions, changes or alterations to the interior of the Leased Premises that are estimated to exceed Ten Thousand Dollars (\$10,000); (b) any additions, changes, or alterations to the exterior of the Leased Premises; or (c) structural changes to the Leased Premises without Landlord's prior written consent, which consent may be given or denied in Landlord's sole discretion. All additions, changes or alterations made by Tenant pursuant to Landlord's consent shall: (i) be made in a workmanlike manner and in strict compliance with all applicable statutes, laws, ordinances, rules, regulations and requirements and the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of this Lease, (ii) shall not adversely affect the structural integrity of the Leased Premises; (iii) shall not adversely affect the efficacy of the Leased Premises; (iv) shall not adversely affect the value of the Leased Premises; (v) when commenced, be prosecuted to completion with due diligence; and (vi) when completed, shall be deemed a part of the Leased Premises and the sole property of Landlord; provided, however, that notwithstanding the foregoing, Landlord shall have the right, at its option, to require Tenant, upon the termination or sooner expiration of this Lease, to remove from the Leased Premises any alterations or additions made by or at the request of Tenant, and if Landlord so requires, Tenant shall remove such alterations or additions, shall repair any damage caused by such removal, and shall deliver the Leased Premises to Landlord in the same condition as the Leased Premises were in upon the commencement of the term hereof, subject to ordinary wear and tear.

8.02 Permits. Tenant shall not do or permit others under its control to do any work in or about the Leased Premises, or related to any repair, rebuilding, restoration, replacement, alteration of or addition to the Leased Premises, or any part thereof, unless Tenant shall have first procured and paid for all requisite municipal and other governmental permits and authorizations.

8.03 Signage. Tenant shall have the right to install signage on the Leased Premises as Tenant may deem necessary or desirable at Tenant's sole cost and expense; provided, however, that Tenant must submit signage drawings to Landlord prior to the construction of such signage for Landlord's consent, which consent may be given or denied at Landlord's sole discretion, and any construction of exterior signage on the Leased Premises must comply with the requirements stated in Section 8.01(i)-(vi) above. Any signage consented to by Landlord must conform with all applicable laws and requirements and Tenant must provide Landlord with documentation that such signage does comply prior to Tenant commencing construction of the signage.

## ARTICLE IX TENANT COVENANTS

9.01 Compliance With Laws. Tenant shall comply with all laws pertaining to equal employment opportunity, social security, Hazardous Substances (as defined in Section 9.04 below), unemployment compensation, workers' compensation, tax, safety, building codes, and any other applicable statutes, ordinances, orders and other public requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Leased Premises or Tenant's permitted use of the Leased Premises. Tenant shall promptly comply with all governmental and other orders, requirements and directives imposed by the Board of Health, Sanitary and Police Departments for the correction, prevention, and abatement of nuisances in or upon, or connected with the Leased Premises, at Tenant's sole cost and expense.

9.02 Indemnity. Tenant hereby indemnifies and holds Landlord harmless from and against any and all liability, loss, claims, demands, damages or expenses (including reasonable attorneys' fees and litigation expenses) due to or arising out of any accident or occurrence on or about the Leased Premises (including, without limitation, accidents or occurrences resulting in injury, death, property damage or theft) or any willful or negligent act or omission of or breach of this Lease by Tenant, its subtenants or licensees, or any of their respective agents, employees or invitees. Tenant's obligations under this Section 9.02 will survive the expiration or early termination of ~~the Term~~this Lease.

9.03 As Is. TENANT HEREBY ACCEPTS THE LEASED PREMISES "AS IS, WHERE IS" AND ACKNOWLEDGES AND WARRANTS THAT LANDLORD HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTEES OF ANY KIND OR CHARACTER WHATSOEVER CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE LEASED PREMISES; (B) THE SUITABILITY OF THE LEASED PREMISES FOR ANY AND ALL ACTIVITIES AND USES WHICH TENANT MAY CONDUCT THEREON; (C) THE COMPLIANCE OF THE LEASED PREMISES WITH ANY APPLICABLE LAWS AND REQUIREMENTS; (D) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE LEASED PREMISES; (E) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS INCORPORATED INTO THE LEASED PREMISES; (F) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE LEASED PREMISES; OR (G) ANY OTHER MATTER WITH RESPECT TO THE LEASED PREMISES.

9.04 Hazardous Substances. Tenant covenants and agrees not to generate, store, handle or dispose of any Hazardous Substance in or upon the Leased Premises during the term of the Lease. "**Hazardous Substances**" means substances, chemicals or materials declared to be, or regulated as, hazardous or toxic under any applicable municipal, state, or federal laws, and shall have the meaning given to such term in such applicable law. Tenant shall indemnify and hold Landlord and its officers, shareholders, partners, employees, and agents, harmless from any loss, claim, liability or expense

including, without limitation, attorneys' fees, court costs, consultant fees, expert fees, penalties, fines, removal, clean-up, transportation, disposal, restoration expenses, diminution in value of the Leased Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Leased Premises, damages arising from any adverse impact on marketing of the Leased Premises arising in connection with Tenant's failure to comply with the provisions of this Section 9.04. A breach of the provisions of this Section 9.04 shall be a material default enabling Landlord to exercise any of the remedies set forth in this Lease. Tenant's obligation hereunder shall survive the expiration or ~~sooner~~earlier termination of this Lease.

## **ARTICLE X MECHANICS' LIENS**

10.01 Mechanics' Liens. Tenant shall not cause or permit any mechanics' or other liens to be created or to exist against the Leased Premises or Tenant's leasehold interest in the Leased Premises. Tenant shall have the right to contest by proper proceedings any such liens or claims thereof, provided that Tenant shall prosecute such contest diligently and in good faith. In the event that any such lien or claim thereof exists beyond sixty (60) days after first being claimed, Tenant shall take all actions as are necessary to cause the claim of lien to be released from the Leased Premises, including bonding-off the claim as necessary during the pendency of such contest. If such liens are so claimed and Tenant does not properly contest such liens, Landlord, at its election (but under no obligation), and upon not less than ten (10) days prior written notice to Tenant, may pay and satisfy same and, in such event the sums so paid by Landlord, with interest thereon at the lesser of the highest lawful rate or the rate of eighteen percent (18%) per annum from the date of payment, and all actual and other expenses, including reasonable attorneys' fees, so paid by Landlord, and all such amounts shall be due and payable by Tenant within five (5) business days of Landlord's delivery to Tenant of written demand for same. Notice is hereby given that Landlord does not authorize or consent to and shall not be liable for any labor or materials furnished to Tenant or anyone claiming by, through or under Tenant upon credit, and that no mechanics, or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of Landlord in and to the Leased Premises or any part thereof.

## **ARTICLE XI UTILITIES**

11.01 Utilities. Tenant shall pay, as applicable, any and all costs and expenses, service charges and all initial utility deposits and fees, for ~~water~~, electricity, ~~sewage~~, janitorial, ~~trash removal~~, gas, telephone, pest control and any other service or utility on or serving the Leased Premises ("Tenant Utilities"). Landlord shall pay, as applicable, any and all costs and expenses for water, sewage, and trash removal serving the Leased Premises. Landlord shall cooperate with Tenant to cause any provider who charges for Tenant Utilities to bill Tenant directly for all such Tenant Utilities. If Tenant is not billed directly for any Tenant Utilities, Landlord shall provide Tenant with a copy of any invoice for Tenant Utilities for which Tenant is responsible hereunder prior to or contemporaneous with any demand for payment of same.

## **ARTICLE XII LANDLORD'S ACCESS**

12.01 Access to Premises. Landlord, for itself and its duly authorized representatives and agents, reserves the right to enter the Leased Premises on twenty-four (24) hours' notice to Tenant (except in situations reasonably deemed by Landlord to constitute emergencies) during the Term of this Lease for the purpose of (a) examining and inspecting the same; (b) performing such work in and about the Leased Premises made necessary by reason of Tenant's default under any of the provisions of this Lease;

(c) showing the Leased Premises to any prospective purchaser or mortgagee of the Leased Premises; (d) during the last year of the Term, to exhibit the Leased Premises to prospective tenants; and (e) for such other purposes as Landlord may reasonably determine to be necessary or appropriate. Landlord may, during the progress of the work mentioned in (b) above, keep and store on the Leased Premises all necessary materials, supplies and equipment, and Landlord shall not be liable for any inconvenience, annoyances, disturbance, loss of business or other damage suffered by reason of the performance of any such work or by the storage of materials, supplies and equipment or by Landlord's exercise of any of its rights under this Lease. In exercising its rights hereunder, Landlord shall use reasonable efforts to avoid unreasonable interference with the operation of the Leased Premises.

### **ARTICLE XIII EMINENT DOMAIN**

13.01 Eminent Domain to All or Substantially All of the Leased Premises. If during the Term of this Lease title to all or a substantial part of the Leased Premises be condemned by any authority having the power of eminent domain, or transferred in lieu thereof, this Lease shall terminate on the date that possession of the Leased Premises condemned or transferred in lieu thereof is required to be surrendered to the condemning authority. All awards or payments received from the condemnation (or transfer in lieu thereof) of title of all or a substantial part of the Leased Premises (whether made entirely to Tenant or Landlord or partially to Landlord and partially to Tenant) shall, when received, become the absolute property of Landlord, and Tenant hereby assigns and transfer to Landlord any and all such awards and payments and agrees that it shall not have any interest therein.

13.02 Eminent Domain as to Less Than a Substantial Part of the Leased Premises. If during the Term of this Lease title to less than a substantial part of the Leased Premises be condemned (or transferred in lieu thereof) by any authority having the power of eminent domain, this Lease shall not be terminated with respect to the Leased Premises and neither the Term nor any of the obligations of either party under this Lease shall be reduced or affected in any way. All awards or payments received from such condemnation of title to less than a substantial part of the Leased Premises or transfer in lieu thereof shall, when received, become the absolute property of Landlord, and Tenant hereby assigns and transfers to Landlord any and all such awards or payments and agrees that, except as herein set forth, it shall not have any interest therein. Landlord may, in Landlord's sole discretion, repair or rebuild the Leased Premises to as nearly as possible the same condition as prior to the taking at Landlord's cost and expense.

### **ARTICLE XIV DAMAGE OR DESTRUCTION BY CASUALTY**

14.01 Damage or Destruction by Fire or Other Casualty. If at any time during the Term of this Lease any part of the Leased Premises is damaged or destroyed by fire or other casualty, this Lease shall not, except as otherwise provided in Section 14.02 below, be terminated and neither the Term nor any of the obligations of either party under this Lease shall be reduced or affected in any way. Landlord shall proceed with due diligence to repair or rebuild the damaged or destroyed Leased Premises to as nearly as possible the same condition as it was in immediately prior to such damage or destruction. All proceeds of insurance shall become the absolute property of Landlord, and Tenant hereby assigns and transfers to Landlord any and all such proceeds and agrees that it shall not have any interest therein.

14.02 Cancellation Right. Notwithstanding the provisions of Section 14.01 above, in the event that the Leased Premises are damaged or destroyed by fire or other casualty, ~~and the reasonably estimated cost of repair of such damage shall exceed \$\_\_\_\_\_~~; Landlord will, promptly after learning of such damage, notify Tenant in writing of the time necessary to repair or restore all of such damage, as estimated by Landlord's architect, engineer or contractor. If such estimate states that repair or restoration

cannot be completed within 180 days from the date of casualty (or within sixty (60) days from the date of casualty if the casualty occurred within the last twelve (12) months of the Term), or if insurance proceeds are not available or sufficient to repair or restore all of the damage to the Leased Premises, then Landlord shall have the right, by written notice to Tenant within ~~thirtyninety (3090)~~ days after the date of such casualty, to terminate this Lease as of that date which is thirty (30) days after the date of such notice.

## ARTICLE XV DEFAULT

15.01 Events of Default. Each of the following acts or omissions of Tenant constitute an “Event of Default” under this Lease:

(a) Tenant breaches or fails to comply with any other provision of this Lease applicable to Tenant, and such breach or noncompliance continues for a period of twenty (20) days after notice by Landlord to Tenant; or, if such breach or noncompliance cannot be reasonably cured within such twenty (20) day period, Tenant does not in good faith commence to cure such breach or noncompliance within such twenty (20) day period or does not diligently complete such cure within sixty (60) days after such notice from Landlord. However, if such breach or noncompliance causes or results in (i) a dangerous condition on the Leased Premises, or (ii) any insurance coverage carried by Landlord or Tenant with respect to the Leased Premises being jeopardized, then an Event of Default will exist if such breach or noncompliance is not cured as soon as reasonably possible after notice by Landlord to Tenant, and in any event is not cured within thirty (30) days after such notice.

(b) Tenant abandons or vacates the Leased Premises.

(c) Tenant's interest under this Lease or in the Leased Premises is transferred or passes to, or devolves upon, any other party in violation of Article VI of this Lease.

(d) Tenant's interest under this Lease or in the Leased Premises is taken upon execution or by other process of law directed against Tenant, or is subject to any attachment by any creditor or claimant against Tenant and such attachment is not discharged or disposed of within fifteen (15) days after levy.

(e) Tenant files a petition in bankruptcy or insolvency, or for reorganization or arrangement under any bankruptcy or insolvency laws, or voluntarily takes advantage of any such laws by answer or otherwise, or dissolves or makes an assignment for the benefit of creditors, or involuntary proceedings under any such laws or for the dissolution of Tenant are instituted against Tenant, or a receiver or trustee is appointed for the Leased Premises or for all or substantially all of Tenant's property, and such proceedings are not dismissed or such receivership or trusteeship vacated within sixty (60) days after such institution or appointment.

15.02 Landlord's Remedies. Whenever any Event of Default shall occur and be continuing, Landlord, may, at its option and without limiting Landlord's right to exercise any other legal right or remedy, in addition to all other contractual, legal or equitable rights and remedies, do any one or more of the following:

(a) Terminate this Lease, in which event Tenant shall immediately surrender possession of the Leased Premises to Landlord.

(b) Continue this Lease and sue for Tenant's performance hereunder (including payment of any amounts due hereunder).

(c) Enter upon and take possession of the Leased Premises without terminating this Lease and without relieving Tenant of its obligations pursuant to this Lease, and expel or remove Tenant and any other person who may be occupying the Leased Premises or any part thereof and any personal property or trade fixtures located therein, and change or alter the locks and other security devices, and relet the Leased Premises in the name of Landlord, at any rental readily obtainable, in which event Landlord shall keep all rent received. In such event, Tenant shall pay to Landlord on demand the expenses of such reletting.

(d) The above-stated remedies of Landlord shall be deemed to be in addition to, and not in lieu of, any other rights and remedies provided Landlord either at law or in equity. No delay in enforcing the provisions of this Lease shall be deemed to constitute a waiver of a default by Landlord, and the pursuit by Landlord of one or more remedies shall not be deemed to constitute an election against other remedies. No receipt of money by Landlord after the expiration or earlier termination of this Lease shall reinstate, or continue the Term of the Lease.

~~15.03 Survival of Obligations. Tenant covenants and agrees with Landlord that its obligations under this Lease shall survive any cancellation and termination of this Lease pursuant to this Article XV.~~

15.03 ~~15.04~~ Performance of Tenant's Obligations by Landlord. If Tenant shall fail to keep or perform any of its obligations as provided in this Lease, then Landlord may (but shall not be obligated so to do) upon the continuance of such failure on Tenant's part for ten (10) days after notice of such failure is given Tenant by Landlord (except that such notice need not be given in any case reasonably deemed by Landlord to constitute an emergency), and without waiving or releasing Tenant from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all sums so paid by Landlord and all necessary incidental costs and expenses incurred by Landlord in performing such obligation shall be paid to Landlord on demand, and if not so paid by Tenant, Landlord shall have the same rights and remedies provided for in this Article XV in the case of an Event of Default by Tenant.

15.04 ~~15.05~~ Default Interest. Any sums due from either party to the other pursuant to this Lease shall, from and after the due date thereof, bear interest at the per annum rate of five percent (5%) in excess of the Prime Rate. The term "**Prime Rate**" shall be that interest rate equal to the prime rate as announced from time to time by Security Bank of Kansas City or any successor to it. The rate of interest applicable herein shall fluctuate concurrently with fluctuations in the Prime Rate, and if the rate herein provided for shall ever exceed the highest rate provided by law, the rate shall be considered as automatically reduced to such highest rate.

15.05 ~~15.06~~ Costs to Enforce. Tenant covenants to pay and to indemnify Landlord against all reasonable costs and charges, including counsel fees, lawfully and reasonably incurred in the successful enforcement of any agreement by Tenant contained in this Lease.

## ARTICLE XVI SURRENDER AND OWNERSHIP

16.01 Surrender of Possession. Upon the expiration or earlier termination of this Lease, Tenant covenants to surrender possession of the Leased Premises to Landlord in as good condition as the Premises was delivered to Tenant at the commencement of the Term, reasonable wear and tear excepted. At or prior to the expiration of the Term, or for thirty (30) days after the sooner termination thereof,

Tenant shall have the right to remove all fixtures, signs and equipment installed by or caused to be installed by Tenant, provided that such items can be removed without damage caused to the Leased Premises. If removal will cause damage, Tenant shall not remove such item without the prior written consent of Landlord, which consent will be given or denied at Landlord's sole discretion. Any damage caused by such removed will be at Tenant's sole cost and expense. All personal property, equipment, and fixtures remaining in the Leased Premises after Tenant's surrender of the Leased Premises shall be considered abandoned by Tenant and Landlord may dispose of it in any manner Landlord wishes. Tenant will reimburse Landlord on demand for all costs incurred for disposal together with all costs for repairs required because of removal of all or any such abandoned personal property, equipment, and fixtures.

## **ARTICLE XVII NOTICE**

17.01 Notices. All notices required or desired to be given hereunder shall be in writing and all such notices and other written documents required or desired to be given hereunder shall be deemed duly served and delivered for all purposes if (i) delivered by nationally recognized overnight delivery service; (ii) delivered by electronic mail (with follow up within two (2) business days by United States Mail or by nationally recognized overnight delivery service); or (iii) delivered in person, in each case if addressed to the parties set forth below:

Landlord:

George Brajkovic  
City Manager  
City of Tonganoxie, Kansas  
526 East 4<sup>th</sup> Street  
Tonganoxie, Kansas 66086  
Telephone: (913) 845-2620  
Email: gbrajkovic@tonganoxie.org

Dan Porter  
Assistant City Manager  
City of Tonganoxie, Kansas  
526 East 4<sup>th</sup> Street  
Tonganoxie, Kansas 66086  
Telephone: (913) 845-2620  
Email: dporter@tonganoxie.org

With a Copy To:

Anna Krstulic  
City Attorney  
Stinson LLP  
1201 Walnut Street, Suite 2900  
Kansas City, Missouri 64106  
Telephone: (816) 842-8600  
Email: anna.krstulic@stinson.com

Tenant:

With a Copy To:

or to such other address as Tenant and Landlord may designate from time to time. All notices given by: (i) nationally recognized overnight delivery service, or (ii) electronic mail, and followed up by regular United States mail or nationally recognized overnight delivery service in accordance with the above procedures, shall be deemed duly given one (1) business day after they are so delivered. All notices given in person shall be deemed duly given when delivered.

**ARTICLE XVIII**  
**NET LEASE**

~~18.01 Net Lease. Tenant acknowledges, agrees, and warrants that all costs, expenses, liabilities, and obligations of every kind or nature whatsoever relating to the Leased Premises which may arise or become due during the Term of this Lease shall be paid by Tenant, except as otherwise set forth herein.~~

**ARTICLE XIX**  
**MISCELLANEOUS**

18.01 ~~19.01~~ Rights and Remedies. The rights and remedies reserved by Landlord and Tenant hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. Landlord and Tenant shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

18.02 ~~19.02~~ Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

18.03 ~~19.03~~ Force Majeure. In the event either party hereto shall be delayed or hindered in or prevented from the performance of any act required under this Lease by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental law or regulations, court or other judicial order, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

18.04 ~~19.04~~ Quiet Enjoyment and Possession. Landlord covenants that so long as Tenant shall not be in default under this Lease, Tenant shall and may peaceably and quietly have, hold and enjoy the Leased Premises leased hereunder during the Term of this Lease.

18.05 ~~19.05~~ Representations of Tenant. Tenant represents and covenants that it is a public library duly formed by the State of Kansas, with lawful power and authority to enter into this Lease, acting by and through its duly authorized officers. Tenant further covenants that the execution of this

Lease and the performance of the terms of this Lease by Tenant will not result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease, or other agreement or instrument to which Tenant is a party, or by which it or any of its property is bound, or any law, order, rule or regulation applicable to Tenant or its property of any court or other governmental body.

18.06 ~~19.06~~ Amendments. This Lease may be amended, changed or modified only by a written agreement duly executed by Landlord and Tenant.

18.07 ~~19.07~~ Construction and Enforcement. This Lease shall be construed and enforced in accordance with the laws of the State of Kansas. Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation. The terms "Landlord" and/or "Tenant" and all pronouns used herein referring to "Landlord" and/or "Tenant" shall include the singular and plural, and masculine, feminine and neuter gender, as the context and circumstances require, and if there be two or more included in the term, the provisions hereof shall apply to each, jointly and severally.

18.08 Power of Landlord; Compliance of Tenant. Notwithstanding anything to the contrary herein, nothing herein shall in any way diminish or usurp the inherent rights and powers of the Landlord to act in its capacity as a public body or political subdivision. Nothing herein shall relieve Tenant from complying with all applicable laws and requirements.

18.09 Legal Representation of the Parties. This Lease was negotiated by the parties hereto with the benefit of legal representation, and any rules of construction or interpretation otherwise requiring this Lease to be construed or interpreted against any party shall not apply to the construction or interpretation of this Lease.

18.10 ~~19.08~~ Invalidity of Provisions of Lease. If for any reason any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

18.11 ~~19.09~~ Covenants Run With The Leased Premises. The covenants, agreements and conditions herein contained shall run with the Leased Premises and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

18.12 ~~19.10~~ Headings. The Article and Section headings shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

18.13 ~~19.11~~ Execution of Counterparts. This Lease may be executed simultaneously in two (2) or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

18.14 ~~19.12~~ Estoppel Certificate by Tenant. Tenant will execute, acknowledge and deliver to Landlord, within ten (10) days after Landlord's written request therefor, a written statement certified by an appropriate officer of Tenant to the effect that (a) this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect, as modified, and stating the modifications); and (b) no notice has been received by Tenant and Tenant is not otherwise aware of any default which has not been cured, except as to defaults specified in said certificate. Such certificate shall also contain such additional information, statements and agreements as Landlord shall reasonably request.

Any such certificate may be relied upon by any prospective purchaser or mortgagee of the Leased Premises or any part thereof.

18.15 ~~19.13~~ No Liability on Landlord. Neither Landlord nor any of its officials, employees, consultants, attorneys or other agents, shall be liable for any damage to property of Tenant or any third party or of others entrusted to employees of Landlord or its agents, nor for the loss of or damages to any property of Tenant by theft or otherwise, whether or not due to the negligence of Landlord or any of its officials, employees, consultants, attorneys or other agents, unless such loss or damage is the result of Landlord's gross negligence or intentional misconduct. Neither Landlord nor any of its officials, employees, consultants, attorneys or other agents shall be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or snow or leaks from any part of the Leased Premises or from the pipes, appliances or plumbing works or from the roof, street or sub-surface or from any other place or by dampness or by any other cause of whatsoever nature, whether or not due to the negligence of Landlord or its officials, employees, consultants, attorneys or other agents; nor shall Landlord or any of its officials, employees, consultants, attorneys or other agents be liable for any such damage caused by other tenants or persons in the Leased Premises or caused by operations in connection with or resulting from any private, public or quasi-public work and Tenant hereby covenants and agrees to indemnify and hold harmless Landlord against any claims, costs, demands, losses or liabilities with respect to any of the matters referred to in this ~~Section 19.13~~ Section 18.15.

18.16 ~~19.14~~ Limitation of Landlord's Liability. Notwithstanding anything contained in this Lease to the contrary, Tenant agrees that Tenant shall look solely to the estate of Landlord in the Leased Premises for the collection of any judgment or other judicial process requiring the payment of money by Landlord in the event of any default or breach by Landlord with respect to any of the terms and provisions of this Lease to be observed or performed by Landlord; subject, however, to the prior rights of the holder of any Landlord's Mortgage, and no other assets of Landlord shall be subject to levy, execution or other judicial process for the satisfaction of Tenant's claim, and Landlord shall not be liable for any such default or breach except to the extent of Landlord's estate in the Leased Premises.

18.17 ~~19.15~~ Landlord's Mortgagees.

(a) Landlord may, at any time and from time to time, grant mortgages, deeds of trust or other liens or encumbrances (herein "**Landlord's Mortgage**") on any of the Leased Premises, and any holder thereof is referred to in this Lease as "**Landlord's Mortgagee**."

(b) This Lease shall be subject and subordinate to any Landlord's Mortgage and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, replacements, modifications, consolidations and extension thereof, provided the Landlord's Mortgagee shall agree to recognize the lease of Tenant in the event of foreclosure if Tenant is not then in default; any Landlord's Mortgage may elect to have this Lease a prior lien to its mortgage or deed of trust, and in the event of such election and upon notification by such Landlord's Mortgagee to Tenant to that effect, this Lease shall be deemed prior to the lien to the said Landlord's Mortgage, whether this Lease is dated prior to or subsequent to the date of said Landlord's Mortgage; Tenant shall execute and deliver whatever instruments may be required to acknowledge such subordination in recordable form, and in the event Tenant fails so to do within ten (10) days after demand in writing, Tenant does hereby make, constitute and irrevocably appoint Landlord's Mortgage as its attorney in fact and in its name, place and stead so to do.

18.18 ~~19.16~~ No Partnership. Landlord does not in any way or for any purpose become a partner of Tenant in the conduct of its business or otherwise, nor a joint venturer or a member of a joint enterprise with Tenant.

18.19 ~~19.17~~ No Holding Over. Tenant shall not remain in possession of the Leased Premises after the expiration or termination of this Lease without the written consent of Landlord, which may be withheld, conditioned, or delayed, for any reason or for no reason, by Landlord, and any such possession absent such consent shall be as a trespasser.

18.20 ~~19.18~~ Survival of Obligations. All obligations of Tenant which by their nature involve performance, in any particular, after the end of the Term of this Lease, or which cannot be ascertained to have been fully performed until after the end of the Term of this Lease, shall survive the expiration or earlier termination of the Term of this Lease.

*[Remainder of page intentionally left blank; signature pages follow.]*

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed as of the date first above written.

[SEAL]

**LANDLORD:**

THE CITY OF TONGANOXIE, KANSAS

By: \_\_\_\_\_  
David Frese, Mayor

ATTEST:

\_\_\_\_\_  
Patricia C. Hagg, City Clerk

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed as of the date first above written.

**TENANT:**

THE TONGANOXIE PUBLIC LIBRARY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE LAND**

**EXHIBIT B****LANDLORD FFE**

<b>Section A: FF&amp;E Items</b>	<b>Amount</b>
AV Systems and Equipment, Cameras, and Low Voltage Equipment	\$ 68,405
Security -Per Keying Meeting adding locks to Community Room Doors	\$ 1,730
Appliances for Breakroom, Community Room and Coffee Bar	\$ 4,822
Additional casework for Storage Rooms, Work Room and Data Room	\$ 9,026
<b>Section A Total: FF&amp;E Grand Total</b>	<b>\$ 83,983</b>
Original FF&E Budget	\$ 110,000
Remaining FF&E Budget after Section A Total Deducted	\$ 26,017
<b>Section B: Items FF&amp;E Savings Covered:</b>	
Exterior Screenwall Material Change	\$8,207.00
Custom Carpet Upgrade	\$973.00
Interior Logo Signage	\$3,350.00
Community Room Operable Partition storage soffits	\$816.00
Quartz Countertop for Community Room & Coffee Bar	\$6,549.40
Sheving Staining	\$ 6,122
<b>Section B Total:</b>	<b>\$ 26,017</b>
<b>Grand Total Spent:</b>	<b>\$ 110,000</b>

<b>Summary report:</b>	
<b>Litera® Change-Pro for Word 10.2.0.10 Document comparison done on 2/13/2020 6:08:43 PM</b>	
<b>Style name:</b> Stinson default	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> iw://EDMS/CORE/157375850/1	
<b>Modified DMS:</b> iw://EDMS/CORE/157375850/3	
<b>Changes:</b>	
Add	58
Delete	55
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	1
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>114</b>



Office of the City Manager  
**AGENDA STATEMENT**

**DATE:** February 18, 2020  
**To:** Honorable Mayor David Frese and Members of the City Council  
**FROM:** Dan Porter, Assistant City Manager  
**SUBJECT:** Adjustment to Purchase of Replacement Street Light Poles

**DISCUSSION:**

Decorative street light poles located in various parts of Tonganoxie were part of a previous infrastructure improvement program and the poles are located throughout the City as described below:

- 4<sup>th</sup> Street – 49 short poles, 22 tall intersection poles
- Main Street by pool – 6 short poles
- Stonecreek Subdivision – 12 tall intersection poles
- Woodfield Drive – 1 tall pole

On January 21, 2020 the City Council authorized the purchase of 1 replacement tall decorative pole from Stanion Wholesale Electric Company following the damage of the pole during the December 15, 2019 winter weather event that led to staff subsequently removing the pole. On the day after the purchase approval during a snow event a vehicle struck and permanently damaged another tall intersection light pole located at 4<sup>th</sup> St. & Pleasant St. After further review it was determined that either the driver or the driver's insurance company in both cases will be able to reimburse the City for the full cost of the replacements.

City staff made contact with the street light vendor and determined that ordering multiple poles would result in some cost savings due to shared freight and the larger order quantity for fabrication. Since the City will be reimbursed for the two damaged poles and the poles often hold "Stop" signs or other signage staff recommend that the City Council consider authorizing the purchase of a total of three street light poles so a replacement can be maintained in on site inventory in case of future situations involving damage to a pole.

**BUDGET IMPACT:**

The total cost of ordering three poles will be \$16,145.98, but following reimbursement for two out of the three poles the financial impact to the City would be \$5,123.66. These resources are available in the City's Capital Projects Fund.

**ACTION NEEDED:**

Make a motion to approve a purchase from Stanion Wholesale Electric Co. for three replacement tall intersection light poles in an amount not to exceed \$16,145.98.

**ATTACHMENTS:**

Invoice from Stanion Wholesale Electric Co.

**cc:** Kent Heskett, Public Works Director  
George Brajkovic, City Manager  
Anna Krstulic, City Attorney



Stanion Wholesale Elec. Co  
 812 S. Main St.  
 PO Drawer F  
 Pratt, KS 67124  
 Website: www.stanion.com

**QUOTE**

Placed by	Ack Date	Order #
KENT	01/24/20	4881988-00
PO #		Page #
POLE QUOTE		1

Ship To: CITY OF TONGANOXIE  
 526 E 4TH  
 PO BOX 326  
 TONGANOXIE, KS 66086-0326

Correspondence To: Stanion Wholesale Elec. Co  
 812 S. Main St.  
 PO Drawer F  
 Pratt, KS 67124

Bill To: CITY OF TONGANOXIE  
 526 E 4TH  
 19339 PO BOX 326  
 TONGANOXIE, KS 66086-0326

*This Document is subject to our General Terms and Conditions of Business Transactions (which can be found at www.stanion.com/terms.html), which are incorporated by reference herein as though fully set forth.*

Instructions		
Ship Point	Via	Ship Date
Stanion Wholesale Electric 105	OUR TRUCK	



Service Center: Lawrence, KS Ph: 785-841-8420 Fax: 785-841-0010

Ln #	Product and Description	Quantity Ordered	Quantity BO	Quantity Shipped	Qty U/M	Unit Price	Price U/M	Net Amount
	FULL PART #: F121-L-B4-EPC-250WPSMH-240V-BL3-RAL-CURA-COAT P501-8 DARK GREEN A317-A1-RAL-DURA COAT P501-8 DARK GREEN P454-5FC-220-RAL-DURA COAT P501-8 DARK GREEN CUSTOM COLOR NOTE: PLUS FREIGHT IN, ESTIMATED ONLY IN TOTAL.							
1	F121-L-B4-EPC-250WPSMH-240V-BL3-RAL-CURA HERITAGE CASTING	3		3	each	5123.66000	each	15370.98
1	<b>Lines Total</b>		<b>Qty Shipped Total</b>	3			<b>Total</b>	15370.98

Clerical errors are subject to correction. Quantities shown are based on information provided to us and should be verified. Prices quoted are based on the quantities shown, and changes must be renegotiated. Prices are firm for \_\_\_\_\_ days(30 max) from quotation date and must be renegotiated after that time.

**Freight In** 775.00  
**Invoice Total** 16145.98



Office of the City Manager  
**AGENDA STATEMENT**

**DATE:** February 18, 2020  
**To:** Honorable Mayor David Frese and Members of the City Council  
**FROM:** Dan Porter, Assistant City Manager  
**SUBJECT:** Request for Authorization to Purchase 2017 Ford Explorer Interceptor in place of the Planned 2020 Dodge Charger Purchase for the Police Department

**DISCUSSION:**

Staff presented an update on the available options for purchasing an additional vehicle for the Police Department at the February 3, 2020 City Council meeting. The options were presented in light of the unforeseen circumstances from Dodge which has resulted in fewer 2020 Dodge Challengers being manufactured than originally expected, which created a nationwide shortage of vehicles available for purchase.

The various options included a Dodge Charger located in the State of Georgia, an Dodge Durango vehicle, used vehicles from the Kansas Highway Patrol, waiting to see if more Dodge Challenger vehicles were manufactured later in the year, and purchasing a 2017 Ford Explorer Interceptor which operated as a demonstration vehicle for 911 Customs. Discussion focused on warranty clarifications, mileage, and levels of equipment installation. At the conclusion of the discussion the City Council approved a motion to authorize a commitment letter to purchase the 2017 Ford Interceptor according to the allocated 2020 Budget for the initiative and asking staff to bring back a formal request to make the purchase with additional details including the price of an extended warranty. The warranty was determined to cost \$1,660.

City staff are requesting the Governing Body's approval of the procurement process proposed to acquire the 2017 Ford Interceptor sold by 911 Customs.

**BUDGET IMPACT:**

No negative budget impact due to pricing. The total cost of the 2017 Ford Interceptor sold by 911 Customs, which includes the vehicle, lights, sirens, interior equipment, decals, and an extended Ford Powertrain warranty totals \$30,130. This purchase price is less than what was planned in the 2020 Adopted Budget, which allocated up to \$26,000 in the City's General Fund and up to \$7,000 in the City's Police Equipment Fund.

**ACTION(S) NEEDED:**

Make a motion to authorize the purchase of a 2017 Ford Interceptor sold by 911 Customs, including the vehicle, lights, sirens, interior equipment, decals, and an extended Ford Powertrain warranty, for an amount not to exceed \$30,130.

**ATTACHMENTS:**

Quotes re: 2017 Ford Interceptor sold by 911 Customs

**cc:** George Brajkovic, City Manager  
Greg Lawson, Police Chief

**2017 Ford Interceptor Utility  
Busch and Associates, LLC.**

Customer:

City of Tonganoxie Police Dept  
Chief Greg Lawson

(P)  
(F)

**CONDITIONS:** The prices and terms on this quotation are not subject to verbal changes or other agreements unless approved in writing by Busch and Associates. All quotations and agreements are contingent upon strikes, fires, availability of materials and all other causes beyond our control. Prices are based on costs and conditions existing on date of quotation and are subject to change by the Seller before acceptance of order. Typographical and stenographic errors are subject to correction. If this quotation is not based on your written request for quotation, then all standard conditions apply. If your purchase order is received as a result of the quotation and contains conditions and terms not previously known to Busch and Associates, we reserve the right to quote based on these conditions. Conditions not specifically stated herein shall be governed by established trade customs. Upon receipt of your order and acceptance of the order by Busch and Associates, the equipment herein will be supplied at the quoted prices below.

Date:	29-Jan-2020
Order #:	1
VIN#	

Description	Qty	List Price Total	PCSO Cost
2017 Ford Interceptor Utility Police Package DEMO, Black Interior/Black Exterior	1		\$27,900
Whelen Carbide Siren System with WC External amplifier, WePort Can Interface Control Module	1	\$ 1,945.00	
Whelen Howler with Fog Lights	1	\$ 604.00	
Whelen SA315P Speakers	2	\$ 656.00	
Whelen Rear Pillar 6 LT Outer Edge for Explorer, Red/Blue	1	\$ 1,439.00	
Whelen Rear 6 LT Outer Edge for Explorer, Red/Amber and Blue/Amber	1	\$ 1,429.00	
Whelen Trio ION Red/White, Blue White Override Smoked Lenses - 2 each	4	\$ 668.00	
Whelen Tracer Duo 5 Lamp with Explorer kit	2	\$ 2,326.00	
Whelen PAR 46 LED Spotlight Smoked	2	\$ 520.00	
Whelen Interior Red/ White Light	1	\$ 204.00	
Whelen Summit 30" Separate Control of Scene, Flood, and One Red and One Blue Warning Lights with Built-in Amber Marker Lights	1	\$ 1,346.00	
Whelen ION Series Smoked lens Red/White with Mirror Kit	1	\$ 395.00	
Whelen ION Series Smoked lens Blue/White with Mirror Kit	1	\$ 395.00	
Whelen Vertex Super LED Red	2		
Whelen ION T-Series Smoked lenses, 4 Blue/White	2	\$ 334.00	
Whelen ION T-Series Smoked lenses, 4 Red/White	2	\$ 334.00	
Whelen ION Universal Blue/White Smoked Lenses	1	\$ 160.00	
Whelen ION Universal Red/White Smoked Lenses	1	\$ 160.00	
Progard HD Push Bumper w/ Four Whelen® Ion™ Duo™ Smoked Lens Two Red/White & Two Blue/White Lights	1	\$ 1,185.00	
Pro-gard Gun Lock System	1	\$ 300.00	
Pro-gard Partition w/ballistic viper shield	1	\$ 3,500.00	
Pro-gard Safe Stop Ford Interceptor Utility	1	\$ 174.00	
Havis 2013-2017 Ford Interceptor Utility Premium Console PKG	1	\$ 400.00	
Digital Ally Video system		\$ 3,500.00	
Noptic Thermal Image camera	1	\$ 3,200.00	
Havis ICS System	1	\$ 3,000.00	
Whelen Continuum Scene lights	2	\$ 800.00	
Havis Touchscreen display and rugged keyboard	1	\$ 1,900.00	
911 Custom Command Cabinet	1	\$ 3,000.00	
<b>Subtotal Equipment</b>		<b>\$ 33,874.00</b>	
		SubTotal	\$ 27,900.00
		<b>TOTAL</b>	<b>\$ 27,900.00</b>

**Comments**

SOLD AS IS. NO EXPRESSED WARRANTIES OR GUARANTEES



**AUL ONLINE SERVICE CONTRACT QUOTE**

<b>Dealer Information</b>	
<b>Name:</b>  <b>Address:</b>  <b>City:</b>  <b>State:</b>  <b>Phone:</b>	<b>Date:</b> _____  <b>Retail Price:</b>  <b>\$</b> _____  <b>Additional Monthly Payment:</b>  <b>\$</b> _____

**Vehicle & Program Information**

<b>Year:</b>  <b>Make:</b>  <b>Model:</b>  <b>Mileage:</b>  <b>VIN:</b>	<b>Coverage:</b>  <b>Program:</b>  <b>Term:</b>  <b>Options:</b>  <b>Deductible:</b> <b>Disappearing Deductible:</b>
---	--

**This AUL Vehicle Service Contract Features:  
100% of Parts & Labor for Covered Components**

<b>Roadside Assistance</b>	<b>Substitute Transportation Costs</b>	<b>Diagnostics Costs</b>
<b>Replacement Fluids Costs</b>	<b>Applicable Taxes Costs</b>	<b>Nationwide Coverage</b>
<b>150 Mile Tow</b>	<b>\$0-\$100 Deductible</b>	<b>.....And More</b>

**Disclaimer**

This document is a QUOTE of the AUL Service Contract. The actual retail amount will be based on coverage and mileage at the time of purchase. The contract will not be valid until all documentation and signatures have been received by AUL CORP. Please see the AUL Contract Terms & Conditions for details. The actual additional monthly payment will be based on your credit and the actual interest rate and term approved by the lender on your loan and may differ from the amount above.

The AUL Vehicle Service Contract has been explained to me. I understand the benefits and hereby decline to purchase the contract. I understand that all repairs on my vehicle are my sole responsibility.

Customer Signature	Date	Dealer Signature	Date



Office of the City Manager  
**AGENDA STATEMENT**

**DATE:** February 18, 2020  
**To:** Honorable Mayor David Frese and Members of the City Council  
**FROM:** Dan Porter, Assistant City Manager  
**SUBJECT:** Request to Waive Fee for Family Season Pass for Genesis Christian Preschool and Academy

**DISCUSSION:**

Genesis Christian Academy requested that the City Council consider donation of a 2020 family season pass to the Tonganoxie Water Park for use in their silent auction held at the "Night of Knights" fundraiser on April 3, 2020. The City Council has voted to approve this request each of the last several years. In order to provide the complimentary pass for use in the fundraiser, the City Council would be required to waive the \$140 fee for the resident family season pass and agree to donate it to Genesis Christian Academy.

**ACTION NEEDED:**

Make a motion to waive the \$140 Tonganoxie Water Park resident family season pass fee and donate it to the Genesis Christian Academy for use at an upcoming annual silent auction.

**ATTACHMENTS:**

Letter requesting donation from Genesis Christian Academy

**cc:** George Brajkovic, City Manager

Spring 2020

Hello from Genesis Schools!

We are excited to announce our annual Night of Knights fundraiser! This community event will be held **April 3, 2020**. We are planning for a silent auction, dinner, raffles and children's activity. This event not only raises money for Genesis, but also brings together the community for a night of food, fellowship and fun.

An event like this relies on support from many people and businesses. Would you be willing to partner with us to help make this event a success? A donation of goods, services, or gift certificate is a great way to advertise your business or product. All donations received will have an acknowledgment in the program and on the school's website - [www.genesschools.org](http://www.genesschools.org). People are encouraged to patronize the businesses who have contributed to Night of Knights.

You may be interested in reserving a table for the evening. A table reservation would include reserved seating, dinner for 8, full page ad in our program and a special gift. Pricing for a table would be \$250. You may reserve your table by contacting the school office by March 27, 2020. Only 6 tables will be available!

Our Night of Knights fundraiser helps keep tuition cost affordable for the community. All donations to this event are tax deductible. Genesis Schools is a 501(c)3 not for profit organization.

Genesis Schools has been serving the community for over 20 years. Our goal has been and will continue to be, to educate students to be strong leaders who will impact the communities where they live with a Christian worldview.

Thank you for your consideration of a donation to our event. Attached is a donation slip to fill out and return with your donation. Please contact the school with questions or to coordinate a donation pick up. You may contact the school office by phone at 913-845-9498 or email at [denise.bixby@genesschools.org](mailto:denise.bixby@genesschools.org).

We appreciate your support of our school!



Office of the City Manager  
**AGENDA STATEMENT**

**DATE:** February 18, 2020  
**To:** Honorable Mayor David Frese and Members of the City Council  
**FROM:** George Brajkovic, City Manager  
**SUBJECT:** Petition for Vacation of Utility Easement in Urban Hess Lots 3,4 &5, Ordinance 1482

**DISCUSSION:**

In January 1997, the Plat for the Urban Hess Industrial area was filed. Each Lot was platted with utility easements located along the front and back, as well as the sides. Since that time, utilities have been located along the front and back of the properties. Utility location services were requested to confirm that there aren't any utilities located within the proposed petition, and verified that to be the case.

HMC is currently conducting business in a building located at 1625 Tonganoxie Dr. This building was constructed in 2003, and spans Lots 3 & 4 of Urban Hess. At the time the building was built, the utility easements on the edges of Lots 3 & 4 were not vacated, and cross under the middle of the structure. This petition is asking for those easements to be vacated.

Additionally, HMC has purchased Lot 5 in Urban Hess, and constructed a new facility. To accommodate a new access drive between the existing facility and new building, this petition is requesting to vacate an unused utility easement along the SW side of Lot 5.

As required by State Statute, the Public Hearing to consider this petition was published in the Tonganoxie Mirror on January 22, 2020.

**BUDGET IMPACT:**

None.

**ACTION NEEDED:**

Make a motion to adopt Ordinance 1482 approving the vacation of specifically described utility easements at approximately 1625 Tonganoxie Dr.

**ATTACHMENTS:**

Petition for Vacation of Utility Easement(s)  
Ordinance 1482

**cc:** Dan Porter, Assistant City Manager  
Anna Krstulic, City Attorney

Prepared by:  
ATLAS SURVEYORS  
2300 HUTTON ROAD  
SUITE 108  
KANSAS CITY, KANSAS 66109  
913-702-5073

**PETITION FOR VACATION OF UTILTY EASEMENTS**

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF  
TONGANOXIE, LEAVENWORTH COUNTY, KANSAS:

The undersigned, being the owner(s) of all the real property abutting both sides of easements hereinafter described, hereby petitions the City Council of Tonganoxie, Kansas, to vacate said easement pursuant to the statutes in such cases made and provided and said Petitioner respectfully shows and represents the following:

1. The easements sought to be vacated is described as follows:

SEE EXHIBIT "A"

2. A drawing of the easement proposed to be vacated is attached hereto and marked as Exhibit "A" and incorporated herein by reference.
4. This petition is being submitted because there is currently a building on each easement.

WHEREFORE, Petitioner respectfully requests that the governing body of the City of Tonganoxie, Kansas, order this Petition filed with the City and direct that notice of the time and place when the Petition will be considered be given by publication 20 days prior to the public hearing; and, that upon said hearing the governing body adopt a resolution vacating said easement, all according to the law.

Dated this 15<sup>th</sup> day of January, 2020.



\_\_\_\_\_, Managing Member HMC Performance Coatings  
(Owner of land on and adjacent to Easement B according to Exhibit "A")

1/15/2020  
Date

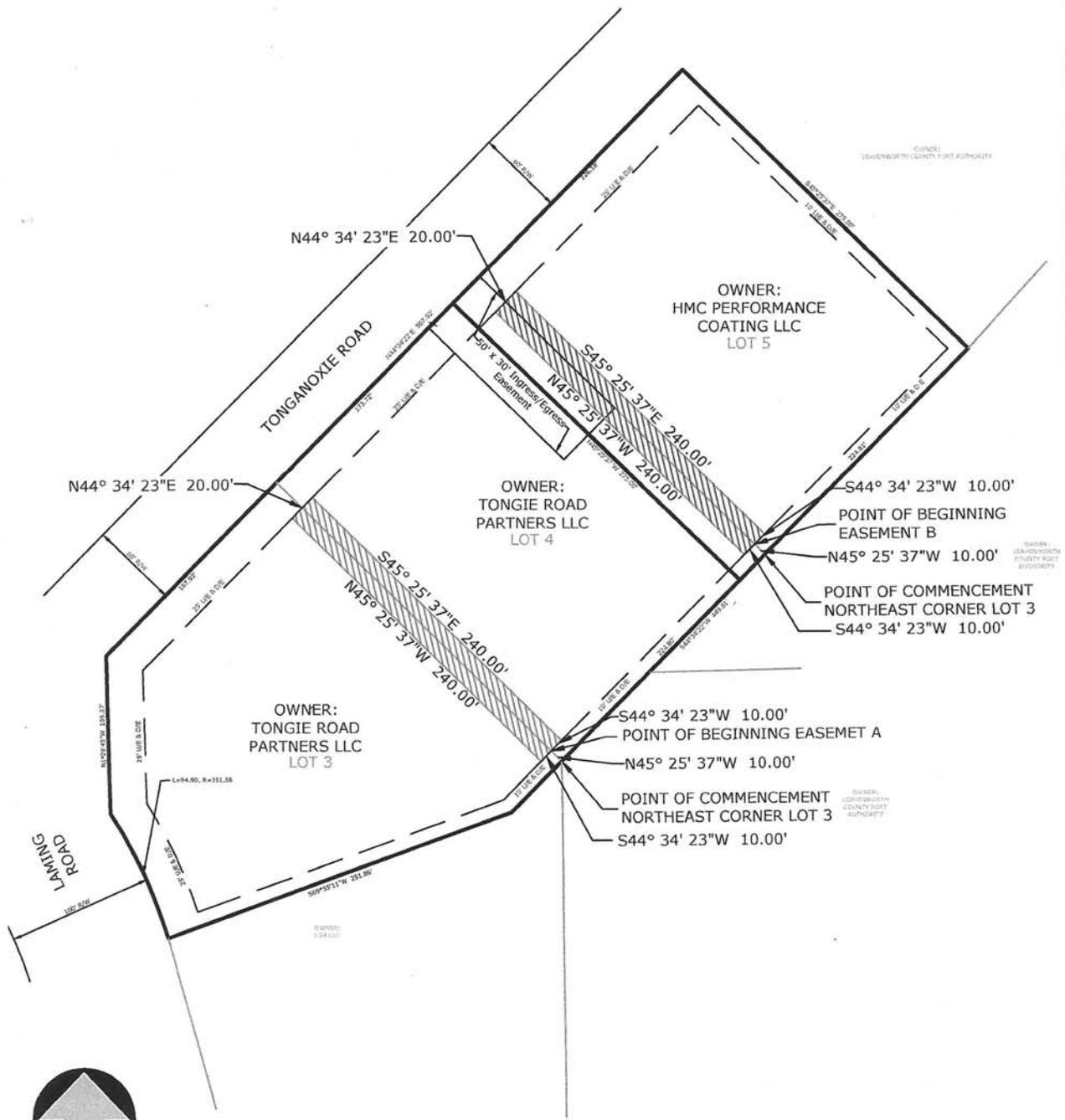


\_\_\_\_\_, Managing Member of Tongie Road Partners LLC  
(Owner of land on and adjacent to Easement A according to Exhibit "B")

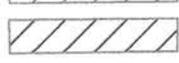
1.15.20  
Date

# EXHIBIT A

SECTION 03-11-21



NOT TO SCALE

-  EASEMENT A
-  EASEMENT B

<b>EXHIBIT A</b>
URBAN HESS TONGANOXIE, LEAVENWORTH COUNTY, KANSAS
<b>ATLAS SURVEYORS</b> , LLC. Taking care of your needs
207 South 5th Street   Leavenworth, Kansas 66048   913.682.8600   913.682.8606 (F)

**EXHIBIT A**  
SECTION 03-11-21

**EASEMENT A VACATION DESCRIPTION:**

THE EAST 10 FEET OF LOT 3, URBAN HESS BUSINESS CENTER NO. 1, A SUBDIVISION OF LAND IN THE CITY OF TONGANOXIE, LEAVENWORTH COUNTY, KANSAS, EXCEPT THE NORTH 25 FEET AND THE SOUTH 10 FEET

AND

THE WEST 10 FEET OF LOT 4, URBAN HESS BUSINESS CENTER NO. 1, A SUBDIVISION OF LAND IN THE CITY OF TONGANOXIE, LEAVENWORTH COUNTY, KANSAS, EXCEPT THE NORTH 25 FEET AND THE SOUTH 10 FEET BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 3; THENCE N45°25'37"W, ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING OF HEREIN DESCRIBED TRACT; THENCE S44°34'23"W, A DISTANCE OF 10.00 FEET; THENCE N45°25'37"W, A DISTANCE OF 240.00 FEET; THENCE N44°34'23"E; THENCE 20.00 FEET; THENCE S45°25'37"E, A DISTANCE OF 240.00 FEET; THENCE S44°34'23"W, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 4,800.00 SQUARE FEET MORE OR LESS

**EASEMENT B VACATION DESCRIPTION:**

THE EAST 10 FEET OF LOT 4, URBAN HESS BUSINESS CENTER NO. 1, A SUBDIVISION OF LAND IN THE CITY OF TONGANOXIE, LEAVENWORTH COUNTY, KANSAS, EXCEPT THE NORTH 25 FEET AND THE SOUTH 10 FEET.

AND

THE WEST 10 FEET OF LOT 5, URBAN HESS BUSINESS CENTER NO. 1, A SUBDIVISION OF LAND IN THE CITY OF TONGANOXIE, LEAVENWORTH COUNTY, KANSAS, EXCEPT THE NORTH 25 FEET AND THE SOUTH 10 FEET BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 4; THENCE N45°25'37"W, ALONG THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING OF HEREIN DESCRIBED TRACT; THENCE S44°34'23"W, A DISTANCE OF 10.00 FEET; THENCE N45°25'37"W, A DISTANCE OF 240.00 FEET; THENCE N44°34'23"E; THENCE 20.00 FEET; THENCE S45°25'37"E, A DISTANCE OF 240.00 FEET; THENCE S44°34'23"W, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 4,800.00 SQUARE FEET MORE OR LESS

This is to certify on this 14TH OF JANUARY, 2020  
this field survey was completed on the ground by  
me or under my direct supervision.



SIGNER: \_\_\_\_\_  
ROGER B. DILL, S.P.S. 1408

**EXHIBIT A**

URBAN HESS  
TONGANOXIE, LEAVENWORTH COUNTY, KANSAS

**ATLAS SURVEYORS, LLC.**  
Taking care of your needs

207 South 5th Street | Leavenworth, Kansas 66048 | 913.682.8600 | 913.682.8606 (F)

## ORDINANCE NO. 1482

### AN ORDINANCE APPROVING THE VACATION OF SPECIFICALLY DESCRIBED EASEMENTS WITHIN THE CITY OF TONGANOXIE, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS:

**SECTION 1. Authority.** Pursuant to K.S.A. 12-504 *et seq.*, the Governing Body of the City of Tonganoxie, Kansas (the "City") is authorized to vacate and/or abandon easements and rights-of-way upon the filing of a petition for the same by any owner of land after the statutory procedures provided for such vacation have been followed. Pursuant to K.S.A. 12-504, HMC Performance Coatings, LLC, a Kansas limited liability company, and Tongie Road Ptrs., LLC, a Kansas limited liability company (collectively, the "Owners") filed a petition with the City Clerk on January 16, 2020 requesting vacation of certain easements benefiting the City and its predecessor-in-interest, which easements are specifically described in **Exhibit A** attached hereto and incorporated herein (the "Easements"), and which Easements are no longer used by the City.

**SECTION 2. Findings Related to Public Hearing.** On February 18, 2020, the Governing Body conducted a public hearing regarding the advisability of vacating the Easements. The City gave notice of the public hearing by publication in the official City newspaper more than twenty (20) days prior to the date of the public hearing in accordance with K.S.A. 12-504. No written objection was filed with the City Clerk regarding the vacation of the Easements at the time of or prior to the hearing, by an owner or adjoining owner who would be a proper party to the petition but did not join therein. No written objection has been filed with the City Clerk regarding the vacation of the Easements at any time. In the public hearing before the Governing Body, the Governing Body heard the petition and received testimony regarding the advisability of the vacation of the Easements as required to fully understand the true nature of the petition and the propriety of granting the same. At the close of the public hearing, the Governing Body determined from the proofs and evidence presented that due and legal notice was given by publication as required in K.S.A. 12-504, and that no private rights will be injured or endangered by the vacation of the Easements, and that the public will suffer no loss or inconvenience thereby, and that in justice to the Owners, as petitioner, the prayer of the petitioner ought to be granted (the "Findings").

**SECTION 3. Adoption of Findings and Order.** The Governing Body hereby adopts the Findings and orders that the Easements be vacated, subject to the reservation to the City and the owners of any lesser property rights for public utilities, rights-of-ways and easements for public service facilities originally held in such plat, street, alley, easement or public reservation then in existence and use but not presently known.

**SECTION 4. Effective Date.** This ordinance shall take effect and be in force from and after its publication in the official City newspaper.

**PASSED** by the City Council this 18<sup>th</sup> day of February, 2020. **APPROVED** by the Mayor.

---

David Frese, Mayor

ATTEST:

---

Patricia C. Hagg, City Clerk

Approved as to Form:

---

Anna M. Krstulic, City Attorney

## EXHIBIT A

### Legal Description of the Easements

#### Easement A:

THE EAST 10 FEET OF LOT 3, URBAN HESS BUSINESS CENTER NO. 1, A SUBDIVISION OF LAND IN THE CITY OF TONGANOXIE, LEAVENWORTH COUNTY, KANSAS, EXCEPT THE NORTH 25 FEET AND THE SOUTH 10 FEET

AND

THE WEST 10 FEET OF LOT 4, URBAN HESS BUSINESS CENTER NO. 1, A SUBDIVISION OF LAND IN THE CITY OF TONGANOXIE, LEAVENWORTH COUNTY, KANSAS, EXCEPT THE NORTH 25 FEET AND THE SOUTH 10 FEET BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 3; THENCE N45°25'37"W, ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING OF HEREIN DESCRIBED TRACT; THENCE S44°34'23"W, A DISTANCE OF 10.00 FEET; THENCE N45°25'37"W, A DISTANCE OF 240.00 FEET; THENCE N44°34'23"E; THENCE 20.00 FEET; THENCE S45°25'37"E, A DISTANCE OF 240.00 FEET; THENCE S44°34'23"W, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 4,800.00 SQUARE FEET MORE OR LESS

#### Easement B:

THE EAST 10 FEET OF LOT 4, URBAN HESS BUSINESS CENTER NO. 1, A SUBDIVISION OF LAND IN THE CITY OF TONGANOXIE, LEAVENWORTH COUNTY, KANSAS, EXCEPT THE NORTH 25 FEET AND THE SOUTH 10 FEET.

AND

THE WEST 10 FEET OF LOT 5, URBAN HESS BUSINESS CENTER NO. 1, A SUBDIVISION OF LAND IN THE CITY OF TONGANOXIE, LEAVENWORTH COUNTY, KANSAS, EXCEPT THE NORTH 25 FEET AND THE SOUTH 10 FEET BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 4; THENCE N45°25'37"W, ALONG THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING OF HEREIN DESCRIBED TRACT; THENCE S44°34'23"W, A DISTANCE OF 10.00 FEET; THENCE N45°25'37"W, A DISTANCE OF 240.00 FEET; THENCE N44°34'23"E; THENCE 20.00 FEET; THENCE S45°25'37"E, A DISTANCE OF 240.00 FEET; THENCE S44°34'23"W, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 4,800.00 SQUARE FEET MORE OR LESS



Office of the City Manager  
**AGENDA STATEMENT**

**DATE:** February 18, 2020  
**To:** Honorable Mayor David Frese and Members of the City Council  
**FROM:** George Brajkovic, City Manager  
**SUBJECT:** Ordinance 1483: Allowing for consumption of Alcoholic Beverages on Public Property for a Private Event at the New Library Facility

**DISCUSSION:**

The Tonganoxie Library Foundation is requesting consideration of an Ordinance that would allow for consumption of alcoholic beverages during a private event at the new Library facility on March 5, 2020. The event is being catered by a professional who holds the required State licensing thru the Kansas Department of Revenue's Alcoholic Beverage Control Division.

Additionally, the event is asking to be exempted from the City Code requiring a Special Event Permit and Fee. The Code allows for permit exemption for events that create minimal impact to the community and that do not require a street closure. An event sponsored by a charitable not-for-profit and government agencies are exempt from fees associated with Special event permits.

**BUDGET IMPACT:**

None.

**ACTION NEEDED:**

Make a motion to adopt Ordinance 1483 approving the consumption of alcohol for a private event to be held at the new Public Library, 4<sup>th</sup> & Shawnee, to be held on March 5, 2020, from 6-8 pm.

**ATTACHMENTS:**

Ordinance 1483

**cc:** Dan Porter, Assistant City Manager  
Anna Krstulic, City Attorney

**ORDINANCE NO. 1483**

**AN ORDINANCE ALLOWING THE CONSUMPTION OF ALCOHOL ON CERTAIN PUBLIC PROPERTY FOR LIMITED TIME AND PURPOSE, PURSUANT TO K.S.A. 41-719(d)(11), (e), FOR THE TONGANOXIE PUBLIC LIBRARY DONOR EVENT.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS:**

**Section 1. Purpose.** The purpose of this Ordinance is to allow for the consumption of alcoholic liquor at the Tonganoxie Public Library Donor Event (the "Special Event").

**Section 2. Exemption of City Property.** Pursuant to K.S.A. 41-719(d)(11) and (e), the City of Tonganoxie, Kansas (the "City") hereby exempts for a limited time and purpose the following property ("Exempted Property"), title of which is vested in the City, from K.S.A. 41-719(d), which prohibits the drinking or consumption of alcoholic liquor by any person on public property:

Tonganoxie Public Library at 217 East 4<sup>th</sup> Street, Tonganoxie, Kansas  
66086.

The exemption of the Exempted Property from the provisions of K.S.A. 41-719(d)(11) shall be limited to March 5, 2020 from 6:00 p.m. to 8:00 p.m., and thereafter the exemption and all other sections of this Ordinance shall be of no force or effect. No alcoholic liquor may be removed from the Exempted Property.

**Section 3. Special Event Performance Standards.** Pursuant to Section 33-014.A of the City Code, the Special Event does not require a Special Event Permit because it is a non-commercial event that will have a minimal impact on the community. The Special Event shall comply with the performance standards set forth in Section 33-017 of the City Code. No streets and alleys shall be closed to motor vehicle traffic during the special event.

**Section 4. Limited Suspension of Certain City Ordinances Pertaining to Alcoholic Liquor.** Notwithstanding any provisions in the City Code to the contrary, the City may allow the possession, drinking and consumption of alcoholic liquor by persons twenty-one (21) years of age or older on March 5, 2020, during the hours of 6:00 p.m. to 8:00 p.m., on the Exempted Property in conjunction with the Special Event, provided that the sale of such alcoholic liquor may only be made by a vendor approved by the City under such rules and regulations as determined by the City Manager or his designee and provided further that nothing contained in this Ordinance shall constitute a suspension of any ordinances prohibiting drunkenness, disturbing the peace, or disorderly conduct on the Exempted Property.

**Section 5. Take Effect.** This Ordinance shall take effect and be enforced from and after its publication.

**PASSED** by the Governing Body and **APPROVED** by the Mayor this 18<sup>th</sup> day of February, 2020.

**SEAL**

---

David Frese, Mayor

ATTEST:

---

Patricia C. Hagg, City Clerk

APPROVED AS TO FORM:

---

Anna M. Krstulic, City Attorney



Office of the City Manager  
**AGENDA STATEMENT**

**DATE:** February 18, 2020  
**To:** Honorable Mayor David Frese and Members of the City Council  
**FROM:** Dan Porter, Assistant City Manager  
**SUBJECT:** Request for Authorization to Purchase F-450 Utility Vehicle for the Public Works Department

**DISCUSSION:**

The Public Works Department is requesting approval of the procurement process proposed to acquire a replacement for the existing 2009 F-450 vehicle and associated equipment used by the City for a variety of functions ranging from utility maintenance & repairs to towing heavy equipment on trailers. This purchase was planned in the 2020 Budget, which was adopted by City Council in August 2019. The purchase is recommended at this time because the City's F-450 service vehicle, as the heaviest utility vehicle, plays a critical role in transporting heavy equipment, tools, fuel, and other materials necessary on job sites located across the City. When evaluating the vehicle on a rating scale called the Fleet Replacement Guide which was developed by the American Public Works Association the current F-450 vehicle scored the highest, or most qualified for replacement, out of the 8 utility vehicles in the Public Works Department Fleet.

The bids collected for these purchases were collected separately for the utility truck and the utility service body & snowplow. The tabulation of the collected bids is listed below, and the low bid for each item is included as an attachment.

2020 Utility Service Truck (excluding utility service body)

Laird Noller Ford -	\$47,259.00
Shawnee Mission Ford -	\$47,494.00
Zeck Ford -	\$49,621.60

Utility Service Body & Snowplow

Knapheide -	\$17,908.00
American Equipment Company -	\$18,204.00

Based on the outcome of the bids and consideration of the staff recommends approval of the lowest bids received for the purchase of the utility service truck and the utility service body with a snowplow. The total cost of these items is \$65,167.00, which is 7% less than the budget allocation estimated during the budget process in the summer of 2019.

At this time it is anticipated that the delivery process will include delivery of the vehicle directly to the utility service body & snowplow vendor for installation of that equipment, followed by payment of the total cost for the vehicle and equipment to the vehicle dealership.

**BUDGET IMPACT:**

No negative budget impact due to bid outcomes. These purchases are anticipated in the 2020 budget and will be paid for in the Water Operations Fund, Sewer Operations Fund, Water Capital Fund, and Sewer Capital Fund due to the variety of work processes supported by this vehicle & equipment.

**ACTION(S) NEEDED:**

Make a motion to authorize the purchase of a 2020 F-450 Utility Service Truck from Laird Noller Ford for an amount not to exceed \$47,259, along with the purchase and installation of a Utility Service Body & Snowplow for an amount not to exceed \$17,908.

**ATTACHMENTS:**

F-450 Utility Truck Quote – Laird Noller Ford

F-450 Utility Service Body and Snowplow Quote - Knapheide

**cc:** George Brajkovic, City Manager  
Kent Heskett, Public Works Director

CNGP530

VEHICLE ORDER CONFIRMATION

12/17/19 15:53:12

==>

Dealer: F53400

2020 F-SERIES SD

Page: 1 of 2

Order No: 0001 Priority: B2 Ord FIN: QR739 Order Type: 5B Price Level: 025  
Ord PEP: 650A Cust/Flt Name: TONGANOXIE PO Number:

RETAIL

RETAIL

X4H	F450 4X4 S/C CC	\$45055	18B	PLAT RUNNING BD	\$445
	168" WHEELBASE			LESS TPMS	
Z1	OXFORD WHITE			16500# GVWR PKG	
A	VNYL 40/20/40		41H	ENG BLK HEATER	100
S	MEDIUM EARTH GR		425	50 STATE EMISS	NC
650A	PREF EQUIP PKG		473	SNOW PLOW PKG	250
	.XL TRIM			JOB #1 BUILD	
572	.AIR CONDITIONER	NC			
	.AMFM/MP3/CLK			TOTAL BASE AND OPTIONS	57955
99T	6.7L V8 DIESEL	9325		TOTAL	57955
44G	10-SPD AUTOMATC	NC		*THIS IS NOT AN INVOICE*	
TGJ	225 BSW AP 19.5			*TOTAL PRICE EXCLUDES COMP PR	
X41	4.10 REG AXLE	NC			
90L	PWR EQUIP GROUP	915		* MORE ORDER INFO NEXT PAGE *	
	TELE TT MIR-PWR			F8=Next	

F1=Help F2=Return to Order F3/F12=Veh Ord Menu  
F4=Submit F5=Add to Library F9=View Trailers

S006 - MORE DATA IS AVAILABLE.

QC05140

4x4

\$ 46,882.00

Camera 377.00

Total \$ 47,259.00

*Laird Noller*

CNGPJ30

VEHICLE ORDER CONFIRMATION

12/17/19 15:53:26

==>

Dealer: F53400

2020 F-SERIES SD

Page: 2 of 2

Order No: 0001    Priority: B2    Ord FIN: QR739    Order Type: 5B    Price Level: 025  
Ord PEP: 650A    Cust/Flt Name: TONGANOXIE    PO Number:

RETAIL

RETAIL

52B BRAKE CONTROLLR    \$270  
62R TRANS PTO PROV    NC  
67A 332 AMP ALTRNTR    NC  
794 PRICE CONCESSN  
REMARKS TRAILER  
SP DLR ACCT ADJ  
SP FLT ACCT CR  
FUEL CHARGE  
B4A NET INV FLT OPT    NC  
DEST AND DELIV    1595

TOTAL BASE AND OPTIONS 57955

TOTAL 57955

\*THIS IS NOT AN INVOICE\*

\*TOTAL PRICE EXCLUDES COMP PR

F7=Prev

F1=Help

F2=Return to Order

F3/F12=Veh Ord Menu

F4=Submit

F5=Add to Library

F9=View Trailers

S099 - PRESS F4 TO SUBMIT

QC05140

~~\$65,239.00~~  
~~65,239.00~~

*AS*



Knapheide Truck Equipment  
 7200 NE 45th Street  
 Kansas City MO 64117  
 Phone: 816-472-4444  
 Fax: 816-472-5147  
 www.kansascity.knapheide.com

**QUOTATION**

Quote ID: EV00007037

Page 1 of 3

**Customer:** LAIRD NOLLER LAWRENCE FORD  
 935 W 23RD STREET  
 LAWRENCE KS 66046

**Quote Number:** EV00007037  
**Quote Date:** 12/16/2019  
**Quote valid until:** 1/15/2020

**Contact:** DAN SCHMIDT  
**Phone:** 785-843-3500  
**Fax:** 1-785-843-4056

**By:** Prepared Eric Voorvart  
**Salesperson:** Eric Voorvart  
**PO#:**

**Enduser:** TONGANOXIE PUBLIC WORKS

<b>Make:</b> FORD	<b>Model:</b> F-450	<b>Year:</b>	<b>Single/Dual:</b> DRW
<b>Cab Type:</b>	<b>Wheelbase:</b>	<b>Cab-to-Axle:</b> 60.0	<b>VIN:</b>

QTY	PART NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT
1	KNAP 6108D54F	PRICES INCLUDE THE FOLLOWING STANDARD FEATURES: 41-1/4" AND 37-1/4" HIGH SIDE PACKS FLIP TOP OPENING LIDS ON EACH COMPARTMENT TOP 14-GAUGE TWO-SIDED A-40 GALVANNEAL STEEL SHELL EXCLUSIVE "RETURN FLANGE" FLOOR 20-GAUGE TWO-SIDED A-40 GALVANNEAL STEEL COMPARTMENT DOORS NEOPRENE COMPARTMENT DOOR SEALS CONTINUOUS STAINLESS STEEL HINGES AUTOMOTIVE QUALITY ROTARY-STYLE LATCHES ADJUSTABLE SECURITY DOOR RING STRIKERS INTERIOR LATCH COVERS DOUBLE-SPRING OVER-CENTER DOOR RETAINER 250-LB CAPACITY ADJUSTABLE SHELVES OEM SPECIFIC INSTALLATION KITS-(MUST BE ORDERED SEPARATELY) SLAM LOCK TAILGATE INTERIOR LIGHT GUARDS SURFACE MOUNT REAR LIGHTS, LED S/T/T & B/U, BUILT IN REFLECTIVITY, UPGRADABLE (8) PATTERN STROBES-(MUST BE ORDERED SEPARATELY) ELECTRODEPOSITION PRIME PAINT * TWO (2) ADJUSTABLE DIVIDER SHELVES & DIVIDERS, STREET & CURB SIDE FRONT VERTICAL COMPARTMENT. * ONE (1) ADJUSTABLE DIVIDER SHELF & DIVIDERS, STREET AND CURB SIDE FULL HEIGHT REAR VERTICAL COMPARTMENT * ONE (1) ADJUSTABLE DIVIDER SHELF & DIVIDERS, CURB SIDE HORIZONTAL COMPARTMENT * AUTOMOTIVE QUALITY ROTARY LATCHES & DOUBLE SPRING OVER CENTER DOOR RETAINERS ON ALL VERTICAL DOORS, ONE (1) 12" SLAM TAILGATE * LIGHT MOUNTING HOLES FOR KNAPHEIDE LIGHTS	\$11,603.00 <i>Service Body</i>	\$11,603.00
1	KNAP 20180910	LED SURFACE MOUNT STOP/TURN/TAIL LIGHTS STEEL SERVICE BODIES (BODIES 80" & WIDER)	\$0.00	\$0.00
1	KNAP 77008787	FACTORY PAINT 108" FLIP-TOP SERVICE BODY KNAP WHITE	\$0.00	\$0.00
1	KNAP 20103600	94" WIDE GALVA-GRIP BUMPER WITH HITCH RECESS, KNAPLINED	\$0.00	\$0.00
1	KNAP 12315289	ALUMINUM DEF FILL CUP FORD SUPER DUTY	\$0.00	\$0.00
1	KNAP 20048435	ALUMINUM FUEL FILL CUP FORD SUPER DUTY OR RAM	\$0.00	\$0.00



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**QUOTATION**

Quote ID: EV00007037

Page 2 of 3

QTY	PART NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT
1	KNAP 20094550	INSTALLATION KIT FOR STEEL SERVICE BODY 2017 & NEWER FORD 60", 84", 108", OR 120" CA	\$0.00	\$0.00
1	KNAP 12256319	REAR STROBE LIGHT ACTIVATION KIT FOR BUILD IN STROBE LIGHTS IN S/T/T LIGHTS	\$0.00	\$0.00
1	KNAP 32776970	FRONT STROBE KIT - INCLUDES (2) AMBER STROBES AND HARNESS INSTALLED ON GRILL OF TRUCK WIRED TO UP FITTERS SWITCH WIRE ALL STROBES TO SAME UP FITTER SWITCH	\$0.00	\$0.00
1	KNAP 12014260	CLASS V RECEIVER HITCH, 18,000 LBS CAPACITY	\$0.00	\$0.00
1	POLL 11-893	RV OEM-STYLE 7-WAY SOCKET BUL LK	\$0.00	\$0.00
1	KNAP 80417173	CHASSIS TRAILER PIGTAIL EXTENSION KIT, FORD OR RAM CAB CHASSIS - LOOSE	\$0.00	\$0.00
1	POLL 12-711U	BLACK-COATED MNTG BRKT FOR 7-WAY RV SOCKET STD PKG 80	\$0.00	\$0.00
1	KARG 79010	KARGO MASTER SIDE CHANNELS FOR 1700# LADDER RACK	\$0.00	\$0.00
1	KARG 70020	KARGO MASTER LEG & CROSSBAR KIT FOR 1700# LADDER RACK	\$0.00	\$0.00
1	KARG 31570	FRONT BAR WIND DEFLECTOR	\$0.00	\$0.00
1	BUYE 8895150	MOUNT LIGHTBAR F150(15+) F250-F-550(17+)	\$0.00	\$0.00
1	ECCO 5580A	LED MINIBAR 12-24VDC 8 HEAD AMBER DOME AMBER ILLUMINATION INSTALL ON NO DRILL LIGHT BRACKET WIRED TO SAME UP FITTER SWITCH AND BODY & GRILL STROBE LIGHTS	\$0.00	\$0.00
65	MISC SUPPLIES	SHOP SUPPLIES	\$0.00	\$0.00
1	WS 76901	9' PRO PLUS FLEETFLEX CONTRACTORS GRADE SNOW PLOW	\$6,075.00	\$6,075.00
1	WS 31270	MOUNT KIT UM F250SD-550SD 2017	\$0.00	\$0.00
1	WS 75700-3	BIG BOX ASSY PRO PLUS	\$0.00	\$0.00
1	WS 72530	HALOGEN HEADLIGHTS-NIGHTHAWK	\$0.00	\$0.00
1	WS 73973-1	HARNESS LGHT FORD 2017 HALOGEN	\$0.00	\$0.00
1	WS 29760-2	MODULE KIT, 3 PORT-SOFT START	\$0.00	\$0.00
1	WS 96500	MULTI-POSITION PLOW HH CONTROL	\$0.00	\$0.00
1	UNIV 50549011055	AERO SHELL FLUID #4	\$0.00	\$0.00
1	WS 62220-1	RUBBER DEFLECTOR KIT 9.0'	\$0.00	\$0.00

Quote Total: \$17,678.00  
 Discount: \$0.00

Total Due(Sales tax not included): \$17,678.00

*Camera Install 230.00*

The following options may be added:

*TOTAL \$17,908.00*



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**QUOTATION**

Quote ID: EV00007037

Page 3 of 3

1	REINSTALL FORD FACTORY BACKUP CAMERA	\$230.00	\$230.00	Yes / No
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**Notes:**

This Quote is subject to the following terms and conditions:

**Credit Card Policy**

We do not accept credit cards for payment of any order in excess of \$10,000.00. For other orders, we do accept MasterCard, American Express, Visa and Discover cards for payment.

**Pricing Policy**

- Price Quotation is good on orders received through the expiration date.
- Pricing quoted applies to chassis make/model originally provided and quantity quoted. Any change may result in price change.
- Orders are subject to all applicable state, local and federal excise taxes. Applicable taxes will be applied on final billing to customer upon completion of order.

**Payment Policy**

- Payment Terms are due upon receipt of signed quote unless prior credit agreement has been established at the time of order.
- Payment terms for customers with an established credit account will be Net 30 from date of Invoice.
- Knapheide has right to assess late charges at 1.5% per month on all invoices that are 60 days or more past due.

**Return Policy**

- All sales are final. Purchased parts or products are non returnable.

**Cancellation Policy**

- Payment is due in full upon cancellation of any orders for non-stocked parts or products (provided part/product has been ordered by Knapheide) and upon cancellation of installation orders, once product installation has begun.

Customer agrees and understands this Quote is an offer to sell subject to the terms and conditions above and any additional terms or modifications are hereby objected to, unless mutually agreed upon in writing by Customer and Knapheide. The undersigned represents and warrants that he/she is duly authorized to sign below on behalf of Customer and thereby accepts offer and Knapheide will begin processing the order.

Customer must fill out the information below before the order can be processed...

<i>Signature &amp; Print Accepted by:</i>	
<i>Date:</i>	
<i>P.O. number:</i>	

*J*



Office of the City Manager  
**AGENDA STATEMENT**

**DATE:** February 18, 2020  
**To:** Honorable Mayor David Frese and Members of the City Council  
**FROM:** Dan Porter, Assistant City Manager  
**SUBJECT:** Disposition of 2009 F-450 Utility Truck, Trailer, and Brush Hog Mower

**DISCUSSION:**

Staff request that the City Council consider approving a request to dispose of the following items, as the City's procurement policy requires the approval of the governing body if the anticipated value is more than \$1,000. Each item is listed below along with the anticipated value and other details.

- **2009 F-450 Utility Truck** Anticipated value \$10,000 - \$15,000  
The vehicle will be available for disposition upon receipt of the 2020 F-450 Utility Truck being considered for purchase approval on 2/18/2020. This vehicle scored the highest, or most qualified for replacement, out of the 8 utility vehicles in the Public Works Department Fleet on the Fleet Replacement Guide which was developed by the American Public Works Association. Leading factors included age, mileage (55,613), and severity of service. It is a key piece of equipment as it operates as the heaviest utility vehicle in the City's fleet.
- **Trailer** Anticipated value \$500  
The 5'x8' single axle trailer with non-working lights & wiring is property which was included in a previously adjudicated Police Department criminal case which included a seizure of cash and property. The owner of the property was contacted multiple times and declined to collect the trailer or respond to subsequent communications.
- **Brush Hog Mower** Anticipated value \$500  
The 3 point hitch, PTO driven brush hog mower implement is recommended for replacement primarily because of its advanced age and incompatibility with the smaller size of the City's tractor. The City also purchased a mower skid steer attachment in 2020 for the skidDue to these factors the equipment is rarely utilized and its value is depreciating.

The proposed disposition process is the utilization of purplewave.com, a widely-known, no-reserve internet auction site that has been utilized for several recent City property dispositions with positive outcomes.

**BUDGET IMPACT:**

The expected value at public auction from the 2009 F-450 vehicle, Trailer, and Brush Hog Mower is anticipated to be approximately \$11,000 – \$16,000. Proceeds from the sales will be deposited in the budgeted funds where the property was acquired from or is otherwise connected. The 2009 F-450 Utility Truck proceeds will be deposited in the Sewer Equipment Fund as assumed in the 2020 Budget.

**ACTION NEEDED:**

Make a motion to authorize the disposition of a 2009 F-450 Utility Truck, Trailer, and Brush Hog Mower by utilizing the Purple Wave online auction site.

**ATTACHMENTS:**

**cc:** George Brajkovic, City Manager  
Kent Heskett, Public Works Director  
Greg Lawson, Police Chief



Office of the City Manager  
**AGENDA STATEMENT**

**DATE:** February 18, 2020  
**To:** Honorable Mayor David Frese and Members of the City Council  
**FROM:** Dan Porter, Assistant City Manager  
**SUBJECT:** Library Board Membership Consideration of Reappointment for 2 Positions and New Applications for 3 Positions

**DISCUSSION:**

Staff completed research and worked with the Library Board President to evaluate the current membership & openings on the Library Board and to research term expiration dates and other membership requirements. The Library Board was expanded from 7 to 10 members in 2015 and the Mayor also serves in an ex-officio capacity. According to City Charter Ordinance 18, at least 5 members of the Library Board must be residents of the City of Tonganoxie, with the balance of the members living within the boundaries of USD 464 territory. Terms on the Library Board are 4 years in duration as specified in State Statute and the Library's Bylaws. The Mayor makes appointments to the Library Board with the approval of the City Council.

The current Library Board is comprised of 7 members including the appointment of Sherry Agee, which was completed in January 2020. 3 of the 7 members have not completed a reappointment by the City Council since the conclusion of their 4 year terms as illustrated in the attached table. The Library Board has also reviewed the application materials of 3 people interested in serving on the Library Board and recommended their appointment to the Mayor & the City Council. Applications for the 3 recommended positions are included as attachments.

**BUDGET IMPACT:**

None.

**ACTION NEEDED:**

Presented for discussion and consideration are the reappointments of Steve Skeet, Teri Morgan, and Brittany McWilliams, along with the appointments of Jennifer Kohl, Emily Arnold, and Dana Splichal.

**ATTACHMENTS:**

Library Board Positions Table  
Applications for Library Board Recommended Appointments (3)

**cc:** George Brajkovic, City Manager  
Anna Krstulic, City Attorney  
Steve Skeet, Library Board President  
Nicole Holifield, Library Director

**CURRENT BOARD**

**Reappointments to Consider**

**Residency Requirements**

5 Positions required to be City residents

	CITY	CITY	CITY	USD 464	USD 464	USD 464	CITY				
Position Number	1	2	3	4	5	6	7	8	9	10	Ex-Officio
Name	Sherry Agee	Angela Bowlin	Megan Vestal	Brian Manus	Steve Skeet	Teri Morgan	Brittany McWilliams				Mayor Frese
Appointment Date (CC)	1/6/2020	8/7/2017	7/17/2017	1/17/2017	7/21/2014	6/15/2015	9/8/2015				N/A
Term Expiration Date	1/6/2024	8/7/2021	7/17/2021	1/17/2021	7/21/2018	6/15/2019	9/8/2019				2024

**Recommended Appointments**

								CITY	USD 464	USD 464	
Position Number	1	2	3	4	5	6	7	8	9	10	Ex-Officio
Name								Jennifer Kohl	Emily Arnold	Dana Splichal	
Potential Appointment Date (CC)								2/18/2020	2/18/2020	2/18/2020	
Potential Term Expiration Date								2/18/2024	2/18/2024	2/18/2024	



**TONGANOXIE**  
PUBLIC LIBRARY

Tonganoxie Library Board of Trustees

Application for Board Position

Name \_\_\_Emily Arnold\_\_\_\_\_

Street Address \_\_\_20874 225 St\_\_\_\_\_

City \_\_\_Tonganoxie\_\_\_\_\_ State \_\_\_KS\_\_\_ ZIP \_\_\_66086\_\_\_\_\_

Telephone \_\_\_913.481.5263\_\_\_\_\_

I have been a resident of Tonganoxie since \_\_\_2015\_\_\_\_\_

Please explain why you are interested in becoming a library trustee.

First, I am very passionate about expanding access to books, media, educational programs, and the internet, and I believe a strong and thriving library is essential to a town's/community's health.

Second, my husband and I have only lived in Tongie for four years. Given most of our connections were in the Lawrence and KC areas, I thought Tongie was just going to be a place where we resided. We unexpectedly found a wonderful community, and Tongie is now the place we *want* to call. Serving on the library board is a way to participate and helped build the community we are so thankful to be a part of.

What experience and skills do you bring to the Board?

I work at KU, so I can bring some perspective from higher education. As part of my position, I have to manage my various research projects, including budget, personnel, and other resources. I am also on the board of advisors for Kansas Starbase, a K-12 DoD funded outreach program, so I am familiar with the struggles of government-funded non-profits.

What do you think are the library's most important roles on the community?

Libraries are a gateway to knowledge and culture, and serve as a "third place"—a place that is neither one's home nor workplace and is a location that fosters community. From a more literal standpoint, the library's most important role is providing broad access to books, media, educational programming, and the internet.

What are some of the problems and challenges facing libraries?

Libraries are increasingly relied on to provide various social services/functions such as technology access and educational opportunities for patrons of all ages. Libraries must utilize their limited resources to address a broad set of needs of the community. In addition, the recent news of Macmillian Publishing restricting access to e-books could be the first of many publishers to take such action, which would further strain libraries to meet the needs of their patrons.

Are you available to attend Board meetings at 7:00 pm on the 2nd Wednesday of each month?

Yes

Is there anything that would prevent you from holding an officer position on the Board? If yes, what?

No

I understand that information provided in this application is part of public record and could be available to others upon request.

Signature 

Date 11/22/19

Please submit completed applications to:

Tonganoxie Public Library  
Attn: Library Board President  
303 S. Bury  
Tonganoxie, KS 66086



**TONGANOXIE**  
PUBLIC LIBRARY

Tonganoxie Library Board of Trustees

Application for Board Position

Name \_\_\_Dana Splichal\_\_\_\_\_

Street Address \_\_\_\_\_18162 250<sup>th</sup> Street

City Tonganoxie State KS ZIP 66086

Telephone 913-845-1589 or 913-645-2156\_\_

I have been a resident of Tonganoxie since birth, minus a few years.

Please explain why you are interested in becoming a library trustee.

**I was asked to join the board based on my history as a prior auditor of the Library and then consultant. However, I do want to be involved in my local community and am excited to be able to utilize my skills and knowledge.**

What experience and skills do you bring to the Board?

**I have been in the accounting profession for over 20 years. And, In my role as an auditor and CPA, I have worked with governmental entities and boards of various sizes.**

What do you think are the library's most important roles in the community?

**I believe that the roles of a library is always changing. With the changes in technology and community needs, the library of today is not the same as yesterday. I believe that the most important role is to foster relationships; whether that be with our literature, technology, information, kids, neighbors or community.**

What are some of the problems and challenges facing libraries?

**Funding would be the biggest challenge followed by support of the community as there are some that do not understand that a library is not just a room full of books.**

Are you available to attend Board meetings at 7:00 pm on the 2nd Wednesday of each month?

**Yes**

Is there anything that would prevent you from holding an officer position on the Board? If yes, what?

**No**

I understand that information provided in this application is part of public record and could be available to others upon request.

Signature \_\_\_\_\_

Date \_\_\_\_\_

Please submit completed applications to:

Tonganoxie Public Library  
Attn: Library Board President  
303 S. Bury  
Tonganoxie, KS 66086



# Boards and Committees Application

City of Tonganoxie

<b>Name (First and Last)</b>	Jennifer L Kohl
<b>Address</b>	1240 Shawnee Street Tonganoxie KS 66086
<b>Email</b>	littlepig@Live.com
<b>Phone Number</b>	9134163652
<b>Are you a registered voter?</b>	Yes
<b>Do you live within the city limits of Tonganoxie?</b>	Yes
<b>Where do you work? Please include your job title and a brief description of your job duties and responsibilities.</b>	Lieutenant over patrol in Basehor Kansas. Patrol supervision, report reviews, some budgetary items, scheduling, working with state agencies on grant programs.
<b>What Board/Committee would you like to serve on?</b>	Library Board
<b>Why do you wish to serve on this board?</b>	Public service oriented and would love to fill an open spot to help assist in any way possible in the community.
<b>What other Tonganoxie boards and committees have you served on?</b>	none
<b>Is this an application for a reappointment to a board you currently serve on?</b>	No
<b>Describe any work or volunteer experience that is related to the function of this board or committee.</b>	Basehor Chamber of Commerce
<b>Select your highest education completed.</b>	Bachelors Degree
<b>Other information or comments</b>	

**City of Tonganoxie**

**CDBG Tracker**

Date: 2/13/2020

**Grant Liabilities**

	Projection	Actual	Remaining
1b. Public Facilities Sewer Line Const	282,514.00	-	282,514.00
1h. Engineering Design	31,421.00	30,049.20	1,371.80
1i. Construction Inspection	23,565.00	-	23,565.00
3a. Grant Administration	10,000.00	-	10,000.00
		-	-
		-	-
		-	-
<b>Subtotal Grant Costs</b>	<b>347,500</b>	<b>30,049</b>	<b>317,451</b>

**City Liabilities**

	Projection	Actual	Remaining
Publications	500.00	380.00	120.00
Legal Services	2,000.00	2,500.00	(500.00)
			-
			-
<b>Subtotal City Costs</b>	<b>2,500</b>	<b>2,880</b>	<b>(380)</b>

	Budget	Actual Costs Incurred	Balance Remaining
<b>Total Project Liabilities</b>	<b>350,000</b>	<b>32,929</b>	<b>317,071</b>

<b>Total Costs</b>	<b>350,000.00</b>	<b>32,929.20</b>	<b>317,070.80</b>
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### Library Project Budget Report - As of 2020-02-13

Land Acquisition Costs	Budget	Actual Costs Incurred	Balance Remaining
Land Purchase	195,149.00	192,921.94	2,227.06
Geotech	7,500.00	3,250.00	4,250.00
Special Inspections	27,629.00	-	27,629.00
Topographical Survey	3,500.00	-	3,500.00
<b>Subtotal Land Acquisition Liabilities</b>	<b>233,778</b>	<b>196,172</b>	<b>37,606</b>
Pre-Construction, Design, and Construction Liabilities - JE Dunn	Budget	Actual Costs Incurred	Balance Remaining
SAPP Design and Preconstruction JE Dunn	386,000.00	371,466.00	14,534.00
Construct and Equip Library Facility (Design-Build Contract)	3,130,222.00	2,408,789.00	721,433.00
		-	-
		-	-
<b>Subtotal Pre-Construction &amp; Design Liabilities - JE Dunn</b>	<b>3,516,222</b>	<b>2,780,255</b>	<b>735,967</b>
	Budget	Actual Costs Incurred	Balance Remaining
<b>Total Project Liabilities (not including issuance costs)</b>	<b>3,750,000</b>	<b>2,976,427</b>	<b>773,573</b>